

U.S. ENVIRONMENTAL PROTECTION AGENCY
PROPOSED TIER 2 MOTOR VEHICLE EMISSIONS STANDARDS
AND GASOLINE SULFUR CONTROL REQUIREMENTS
NOTICE OF PROPOSED RULEMAKING
PUBLIC HEARING

DENVER, COLORADO

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P R O C E E D I N G S

(10:00 a.m.)

MR. LONG: Good morning. If everybody will find a seat, we'll get started.

My name is Richard Long. I'm the Director of the Air Division for the EPA Region 8 Office here in Denver. I want to welcome everyone to Denver to take part in this important decision that is before the Agency.

First of all, though, I want to assure everyone, for those who have come in to Denver from out of town, you did not wake up and Seattle. This is not March. This is Denver in June. It is supposed to be 80 degrees and sunny. My apologies for the weather. There's not much I can do about that.

I want to turn this over to Margo Oge, who is the head of the Office of Mobile Sources, and she will be chairing this panel today, and taking comments.

Margo?

MS. OGE: Thank you, Dick. Good morning.

On behalf of the Environmental Protection Agency, I would like to thank you for coming and welcome all of you to today's hearing. Thank you for my tea also. Thank you very much.

We're looking forward to today's set of testimonies. We're looking forward to hearing your views on

1 a program that we believe is critical to the future of air
2 quality in this country.

3 My name is Margo Oge. I'm the director of the
4 Office of Mobile Sources with EPA, and I will be serving as
5 your presiding officer for today's hearing.

6 The proposed regulations we're considering today
7 were announced by President Clinton on May 1, 1999, and they
8 were published in the Federal Register on May 13, 1999.

9 We believe that this is a historic proposal. This
10 program will achieve a dramatic reduction in air pollution
11 for the 21st century, and we will do it in a most cost
12 effective and flexible way.

13 We estimate emission reductions of almost 2.2
14 million nitrogen oxides per year by 2020. This is equivalent
15 of removing 166 million cars from the road.

16 I want to share with you a number of principles
17 that we followed in developing this proposal. We wanted to
18 meet the air quality needs for the states and the nation as a
19 whole. We wanted to treat autos and fuel as one system. We
20 wanted to bring sport utility vehicles, minivans and pickup
21 trucks in the same standards as those followed by the
22 passenger vehicles. We wanted to have a standard that is
23 fuel neutral, that is, regardless of the fuel used in the
24 car, diesel or gasoline, we wanted to have the same standard.

25 We wanted to make sure that we don't constrain
26 consumer choice of vehicles or driving styles, either due to
27 cost or technology factors. And we wanted to provide
28 flexibility for industries in how they achieve the standards.

29 At the same time that we published the Tier 2
30 standards, we also released an advance notice of proposed
31 rulemaking concerning diesel fuel quality. We're not seeking
32 testimony today on this proposal. We have established a
33 separate docket, and the number is A-99-06 for comments on
34 this advance notice of a proposed rulemaking.

35 Now, many of you are probably aware of the two
36 recent Court of Appeals decisions regarding EPA's air
37 programs. The first decision found that the Clean Air Act,
38 as applied in setting public health air quality standards for
39 ozone and particulate matter, is unconstitutional as an
40 improper delegation of legislative authority to EPA.

41 Despite this constitutional ruling, however, the
42 court did not question the science on which EPA relied to
43 develop the public health standards or criticize EPA's
44 decision making process.

45 We disagree with this decision, and we have
46 recommended to the Department of Justice that they take all
47 necessary judicial steps to overturn this decision.

48 The second decision stayed the submittal of state
49 plans under the NOx SIP call that were due to the Agency this
50 fall. We have closely reviewed both these decisions and have

1 concluded that they do not impact the Tier 2 rulemaking.

2 The Tier 2 proposal remains on strong scientific
3 grounds. It's strong in terms of need, air quality need,
4 technological feasibility, cost and cost effectiveness.

5 We believe that the Tier 2 standards as proposed
6 are needed to attain and maintain the one-hour air quality
7 standards. More than 70 million americans are breathing
8 unhealthy air today. This trend will continue unless we take
9 action now. We believe this proposal is technologically
10 feasible, and it is cost effective.

11 The projected costs of meeting this proposal are
12 about \$100 for cars and \$200 for light duty trucks, and
13 between one and two cents per gallon of gasoline.

14 Even though our cars and trucks are much cleaner
15 that ever before, they still contribute a large part of our
16 air pollution problems. Americans love to drive, and we're
17 driving more than ever. If we don't act today, the emissions
18 from our cars and light duty trucks, combined with the
19 current levels of sulfur in gasoline, threaten to erode the
20 many air quality gains we have made in recent years.

21 The Tier 2 emissions standards will reduce
22 significantly the ozone precursors like nitrogen oxides and
23 volatile organics, will reduce particulate emissions, air
24 toxic emissions from these sources, and will help improve
25 visibility. For example, in Denver, the city that we're
26 visiting today, motor vehicles are responsible for almost 40
27 per cent of the fine particulates in the metropolitan area in
28 Denver.

29 Today's proposal would improve visibility
30 throughout our communities, particularly here in the west,
31 and in national treasures like the Grand Canyon. A number of
32 western governors noted the importance of controlling mobile
33 sources as part of efforts to improve visibility.

34 Last June, June 29, 1998, in a joint letter to the
35 Administrator, they states, "The Federal Government must do
36 its part in regulating emissions from mobile sources that
37 contribute to regional haze in these areas," and called on
38 EPA to make a "binding commitment to fully consider the
39 Commission's recommendations related to the federal national
40 mobile source emission control strategies." They
41 specifically recommended the Tier 2 vehicle standards and
42 reduction in gasoline sulfur levels.

43 The proposal that we're considering today contains
44 two primary elements. First, we have proposed a more
45 protective emissions set of standards for all light-duty cars
46 and light-duty trucks.

47 The proposed Tier 2 standards would require all
48 vehicles and trucks weighing up to 8,500 pounds to meet a
49 corporate average NOx standard of 0.07 grams per mile. This
50 new standard will result in cards that are 77 per cent

1 cleaner, and SUVs, minivans and pickup trucks that are as
2 much as 95 per cent cleaner than today's models.

3 The second main element of the Tier 2 proposal is a
4 nationwide control of sulfur in gasoline. For the first time
5 with this proposal, we are addressing vehicles and fuels as
6 one system. Because sulfur poisons anti-pollution control
7 systems, we are proposing to reduce sulfur levels in gasoline
8 by 90 per cent. With cleaner fuels, not only the Tier 2
9 vehicles will benefit, but all the existing fleet on the road
10 today will benefit.

11 Refiners and importers of gasoline would be
12 required to meet a new sulfur limit of 30 parts per million
13 on average beginning in 2004, with a banking and trading
14 program that could introduce cleaner fuel to the marketplace
15 as early as 2000, and could delay implementation of this
16 program as late as 2006. The Tier 2 proposal also includes a
17 set of provisions designed to provide more flexibility to
18 small refiners.

19 Now, before getting started with today's testimony,
20 I'll take a few minutes to introduce the panel and describe
21 how we will conduct this hearing.

22 With me, you met Dick Long on the left. Dick is
23 the Director of our Air Program here in Denver.

24 Next to me is Chet France. Chet is the Director of
25 the Engines and Compliance Group in the Office of Mobile
26 Sources with EPA.

27 To my right is Mr. Glenn Passavant, and he's the
28 team leader of this effort in many manners, who also has
29 provided assistance to us since he is in the Office of Mobile
30 Sources.

31 We have received an overwhelming number of requests
32 to testify today, and will do our best to accommodate
33 everyone that has signed or is walking in to talk to us
34 today. We ask witnesses, therefore, to please limit your
35 comments to no more than 10 minutes.

36 Now, Ted, who is supposed to be sitting right there
37 in the front seat right there, stepped out. He's is going
38 to--Ted, you have to come forward. Ted is going to remind
39 you when you're running out of time. So Ted is a very
40 important person to keep us on time, so please look at him.
41 If you don't, then I'll ask you to please move on and
42 conclude your remarks.

43 Now, we're conducting this hearing in accordance
44 with Section 307(D)(5) of the Clean Air Act, which requires
45 EPA to provide interested persons with an opportunity for
46 oral presentation of data. The comment period for this
47 proposal will end August 2nd of 1999 for additional written
48 comments.

49 Now, the hearing will be done informally, and
50 formal rules of evidence will not apply. The presiding

1 officer, however, is authorized to strike from the record
2 statements which are deemed irrelevant to this hearing, and
3 also to enforce a reasonable limit on the duration of the
4 statement.

5 We request that the witnesses please state your
6 names and the affiliation prior to making your statements.
7 The EPA panel may ask you questions after you have concluded
8 your statements. And you are reminded, the witnesses are
9 reminded that any false statement or false response to
10 questions may be a violation of law.

11 If there are any members of the audience who wish
12 to testify who have not already signed up, please submit your
13 name with the receptionist outside, and I will do my best to
14 have you come forward and make your comments.

15 We require that you refrain from bringing food into
16 the meeting room due to the terms of the contract with this
17 facility.

18 And finally, if you would like a transcript of this
19 proceeding, you should make arrangements directly with the
20 court reporter at any of the breaks. Also, you should know
21 that this transcript of this public hearing will be available
22 in the docket in two weeks.

23 Before we begin the testimony, I want to know if
24 there are any questions. If not, I'm going to ask the first
25 group of speakers to come forward. Let me ask Mr. Eric
26 Skelton, Ms. Vickie Patton, Mr. Jim Nokes, Ms. Josephine
27 Cooper, Mr. Gerald Faudel, Mr. Tom Cackette, and also we have
28 with us Dr. Paul Berger, who has asked to testify as soon as
29 possible because he needs to get back to his patients. And
30 if he's here, I would welcome him to come up front. Dr. Paul
31 Berger.

32 Mr. Eric Skelton, we'll start with you, please.

33 MR. SKELTON: Good morning.

34 MS. OGE: Good morning.

35 MR. SKELTON: My name is Eric Skelton, and I'm the
36 Director of the Spokane County Air Pollution Control
37 Authority in Spokane, Washington, and I'm also President of
38 ALAPCO, which is the Association of Local Air Pollution
39 Control Officials.

40 I appear here this morning on behalf of ALAPCO,
41 which represents my own agency, as well as more than 165
42 other local air pollution control agencies across the
43 country, and on behalf of STAPPA, the State and Territorial
44 Air Pollution Program Administrators, which represents the
45 air pollution control agencies in 55 states and territories.

46 I am pleased to have this opportunity to provide
47 the Association's testimony on the U. S. Environmental
48 Protection Agency's recently proposed Tier 2 Motor Vehicle
49 Emission Standards and program to reduce sulfur in gasoline,
50 as well as on the Agency's advance notice of proposed

1 rulemaking on diesel fuel.

2 On behalf of STAPPA and ALAPCO, I would like to
3 commend EPA for its leadership, not only in issuing the Tier
4 2 and gasoline sulfur proposal, but also for developing such
5 a strong and comprehensive package. We further commend EPA
6 for responsibly taking full advantage of the opportunity to
7 efficiently and cost effectively reduce a wide variety of
8 emissions, for pursuing a systems approach that addresses
9 both fuels and tailpipe emissions, and for engaging in such a
10 thorough, thoughtful and inclusive process to craft this
11 proposal.

12 We are especially pleased that the proposed Tier 2
13 and gasoline sulfur programs directly reflect almost every
14 key recommendation made by STAPPA and ALAPCO over the past
15 two years. These programs, which will define our ability to
16 control emissions from cars and light-duty trucks for the
17 next 15 years or so, are of vital importance to our
18 memberships, as we work toward ensuring clean air for our
19 cities, counties and states.

20 For this reason, in October 1997 and April 1998,
21 our associations adopted, with overwhelming support,
22 resolutions calling for stringent low-sulfur gasoline and
23 Tier 2 programs. Copies of these resolutions are attached to
24 my written statement. We have placed the highest priority on
25 participating in the rule development process and are pleased
26 that EPA has concluded that the most appropriate programs so
27 closely mirror those for which we have advocated.

28 As the officials with primary responsibility for
29 achieving and maintaining clean, healthful air across the
30 country, state and local air agencies are keenly aware of the
31 need to aggressively pursue emission reductions from all
32 sectors that contribute to our nation's air quality problems.
33 We believe the potential air quality benefits to result from
34 cutting emissions from light-duty vehicles and light-duty
35 trucks and reducing sulfur in gasoline, as the agency has
36 proposed, are tremendous.

37 These proposed programs will give us substantial
38 and much needed emission reductions and, thereby, allow us to
39 make significant strides in our efforts to deliver and
40 sustain clean air across the country. These emission
41 reductions will play a pivotal role in addressing an array of
42 air quality problems that continue to pose health and welfare
43 risks nationwide.

44 While much of the debate surrounding the air
45 quality need for Tier 2 and low sulfur gasoline seems to have
46 gravitated toward ozone, it is imperative that we not
47 overlook the many other important air quality benefits of
48 this proposal, to be realized by both non-attainment and
49 attainment areas, east and west.

50 While this proposal will, indeed, decrease

1 emissions of hydrocarbons and NOx which, in turn, will lead
2 to reduced levels of ambient ozone, it will also decrease
3 particulate and carbon monoxide emissions, improve
4 visibility, address acid rain problems and reduce greenhouse
5 gases and toxic air pollution.

6 In addition, the substantial reductions to occur
7 from this proposal will further the objectives of air
8 pollution prevention. It is these many other air quality
9 attributes that make the proposed Tier 2 and gasoline sulfur
10 programs so attractive to areas like Spokane, which, while
11 not in violation of the one-hour ozone standard, is federally
12 designated as non-attainment for carbon monoxide and PM10,
13 due in part to motor vehicle emissions.

14 Additionally, the proposed programs will achieve
15 important air quality improvements in an extremely cost-
16 effective manner. At approximately \$2,000 per ton of NOx and
17 VOC removed, as estimated by EPA, these programs are at least
18 as cost effective as, if not more cost effective, than most
19 other control measures available to us, and the dividends, as
20 I have mentioned, are huge.

21 Most of the technological solutions to our air
22 quality problems have already been implemented. Among the
23 remaining tools available to us as regulators are behavior-
24 based approaches to reducing air pollution, such as commute
25 trip reduction programs, ozone action days, and transit
26 incentives.

27 As a local official, I support these programs from
28 the standpoint of air quality and congestion management. But
29 they are expensive, they take time to implement, and their
30 success hinges on a protracted process of achieving public
31 buy-in.

32 In contrast, Tier 2 and low sulfur gasoline not
33 only give us two more technology-based approaches to reducing
34 air pollution and meeting federal health-based standards and
35 other air quality goals, but they are also cost effective and
36 essentially invisible to the public.

37 In addition, Tier 2 and low sulfur gasoline will
38 buy us more time to successfully implement the behavioral
39 approaches in our cities and metropolitan areas.

40 There are some components of the proposal with
41 which we have concerns, and we will offer recommendations to
42 address these. Nonetheless, STAPPA and ALAPCO congratulate
43 EPA for issuing a proposal that we believe provides a sound
44 framework for environmentally and economically responsible
45 Tier 2 and gasoline sulfur programs.

46 STAPPA and ALAPCO strongly support what we believe
47 are the cornerstones of the proposed Tier 2 program.
48 Specifically, we are pleased that the proposal cost
49 effectively achieves real world emission reductions from new
50 light-duty vehicles and light-duty trucks; reflects new and

1 emerging vehicle and emission control technologies currently
2 available and expected to be available in 2004 and beyond;
3 applies to light-duty vehicles and light-duty trucks up to
4 8,500 pounds, including sport utility vehicles, pickup trucks
5 and vans, beginning in 2004; subjects light-duty trucks up to
6 8,500 pounds to the same emission standards as cars and
7 lighter trucks, and includes a corporate average NOx standard
8 for all affected vehicles; establishes fuel-neutral
9 standards; includes a more stringent evaporative emissions
10 standard; and extend useful life to 120,000 miles.

11 These program components are right on target for a
12 truly effective national motor vehicle control program.

13 We are, however, concerned that several provisions
14 included in the proposal or raised for public comment could
15 significantly undercut the program. Among these concerns are
16 the later compliance deadline of 2009 versus 2007 for larger
17 SUVs, van and trucks, and the notion of a formal technology
18 review of the Tier 2 standards prior to the time that the
19 standards for heavier light-duty trucks take effect.

20 In addition, while we certainly agree with EPA that
21 there should be some measure of flexibility included in the
22 Tier 2 program, and find some of the approaches provided to
23 be entirely appropriate, we are quite concerned with various
24 aspects of some of the proposed provisions, such as the
25 amount of time allowed for manufacturers to make up for a
26 credit shortfall under the Averaging, Banking and Trading
27 program, and the leniency of some of the emission standard
28 bins.

29 Finally, given the continuing trend toward heavier
30 light-duty trucks over 8,500 pounds, we encourage EPA to
31 consider applying the Tier-2 standards to those SUVs, pickup
32 trucks and full-size vans weighing up to 10,000 pounds, used
33 predominantly for personal transportation. We will fully
34 articulate all of these concerns in our forthcoming written
35 comments.

36 As with the Tier 2 program, STAPPA and ALAPCO also
37 believe EPA has done a fine job in establishing the key
38 parameters of the proposed low-sulfur gasoline program.
39 EPA's proposal very appropriately and necessarily establishes
40 uniform, national, year-round standards to sharply reduce
41 sulfur in gasoline; sets a gasoline sulfur standard of 30
42 parts per million on average, to take effect in 2004, and
43 includes a sulfur cap of 80 parts per million; includes
44 flexibilities to minimize the cost to and compliance burden
45 on affected parties; and provides incentives for refiners to
46 reduce sulfur levels prior to the 2004 effective date.

47 Last spring, STAPPA and ALAPCO conducted an
48 analysis concluding that a national low sulfur gasoline
49 program of this scope will achieve overnight emission
50 reductions that are equivalent to taking 54 million vehicles

1 off the road.

2 Further, throughout the debate surrounding gasoline
3 sulfur, the issue of a national versus regional program has
4 been paramount. We are gratified that EPA has proposed that
5 low sulfur gasoline standards apply uniformly nationwide.
6 This approach will forestall the very real and detrimental
7 aspects of irreversible catalyst poisoning, and will do so in
8 a way that is both inexpensive--

9 MS. OGE: Mr. Skelton, could you please conclude your
10 remarks?

11 MR. SKELTON: Okay.

12 MS. OGE: Thank you.

13 MR. SKELTON: In conclusion, I just want to reiterate
14 our support for Tier 2 for low sulfur gasoline, and also
15 offer our support for the development of the low sulfur
16 diesel.

17 MS. OGE: Thank you. Ms. Vickie Patton, good morning.

18 MS. PATTON: Good morning. The Rocky Mountain Office of
19 the Environmental Defense Fund greatly appreciates the
20 opportunity to comment on EPA's proposal to reduce harmful
21 air pollution from cars and trucks. Because of the critical
22 importance of low sulfur fuel to the western United States,
23 our comments will focus on that aspect of EPA's proposed
24 clean air initiative.

25 Sulfur in fuel creates harmful air pollution in two
26 ways. It produces harmful emissions as a part of the
27 combustion process and it impairs the ability of catalytic
28 converters to remove harmful air pollutants. High sulfur
29 fuel especially impairs the new enhanced catalysts that will
30 be utilized in the next generation of clean cars and trucks.
31 In short, low sulfur fuel poisons clean car technology and
32 is, therefore, a critical ingredient in reducing air
33 pollution from motor vehicles.

34 The low sulfur fuel standard proposed by EPA would
35 have a variety of critical clean air benefits. For example,
36 national emissions of oxides of nitrogen, or NOx, have
37 increased substantially since the Clean Air Act was first
38 adopted in 1970. NOx air pollution endangers the public
39 health and the public welfare in several ways.

40 NOx is one of the major contributors to smog, which
41 causes short and long-term lung damage in children,
42 asthmatics and other vulnerable populations. NOx is one of
43 the major contributors to fine particles that are breathed
44 deep into the lungs and cause premature death,
45 hospitalization, and emergency treatment of thousands of
46 elderly. NOx is one of the major contributors to acid rain
47 and ecological damage in our mountains, lakes and streams.
48 NOx contributes to the haze that impairs scenic vistas in
49 western national parts and wilderness areas.

50 And, in turn, cars and trucks are one of the major

1 contributors to NOx air pollution. Low sulfur fuel in
2 conjunction with new clean car technology reduces NOx by 130
3 per cent over current standards. When fully implemented,
4 EPA's clean air initiative would reduce NOx emissions by more
5 than 2 million tons a year.

6 In Colorado, the NOx reduction benefits of low
7 sulfur fuel are equivalent to removing approximately 900,000
8 vehicles from the road, and more than half a million from the
9 Denver metropolitan area alone. The benefits are similarly
10 impressive elsewhere in the West.

11 Low sulfur fuel is also necessary to reduce other
12 harmful pollutants such as particulate matter, volatile
13 organics, and toxic air pollution. EPA's own cumulative
14 exposure project indicates that millions of Americans are
15 exposed to unreasonable cancer risks from air toxics, and
16 that motor vehicles are a principal contributor to this
17 cancer risk. This important data, which is now in the public
18 domain at www.scorecard.org--that's www.scorecard.org,
19 indicates that vast numbers of people in the Rocky Mountain
20 West are exposed to cancer risk from air toxics that
21 seriously exceed the risk level acceptable under the Clean
22 Air act.

23 Two and a half million people in Colorado are
24 exposed to unacceptable cancer risks from air toxics. 1.4
25 million people in Utah, 673,000 people in Idaho, 439,000
26 people in Montana and over 200,000 people in Wyoming all are
27 exposed to unacceptable cancer risks from air toxics. In
28 each of these areas, emissions from cars and trucks are a
29 major contributor to the harmful pollution levels.

30 In the first year of implementation in the West, a
31 30 parts per million low sulfur fuel requirement would
32 realize an additional 115,000 ton reduction in smog-forming
33 pollution, and an addition 11,000 ton reduction in the fine
34 particles that threaten public health and obscure western
35 vistas. These tremendous emission reductions are above and
36 beyond the weaker sulfur standard advanced by the refining
37 industry. We urge EPA to finalize a strong low sulfur fuel
38 standard that will deliver these important air quality
39 benefits to the Western United States.

40 The refining industry is pressing for a regional
41 variance under EPA's low sulfur fuel proposal that would
42 allow dirtier gasoline in the West. The refining industry
43 argues that western air quality does not warrant the
44 protection afforded by low sulfur fuel because the air
45 quality problems here are not as severe as California or the
46 Northeast. The Environmental Defense Fund vigorously
47 disagrees with this claim.

48 Those of us who live here and breathe the air find
49 this argument insulting and are deeply dismayed that the
50 refining industry would relegate us and our children to

1 second class citizens.

2 We have a variety of air quality problems in the
3 West. Further, one of the very reasons we choose to live
4 here and raise our families here is because we highly value
5 our air quality. We do not want Denver or other communities
6 in the West to become like California, New York or New
7 Jersey. It is ludicrous to suggest that we should wait until
8 our air quality problems are like those of California before
9 we take protective steps.

10 If we can draw any lessons from the serious air
11 quality problems in the East and in California, it is that
12 preventing air pollution problems is eminently more
13 environmentally and economically sensible than waiting until
14 the problems become overwhelming. We urge EPA to have the
15 vision to protect western air quality now and avoid the
16 short-sighted policies that allowed pervasive and persistent
17 pollution problems to occur in other regions of the country.

18 The body of technical evidence in the rulemaking
19 record demonstrates that low sulfur fuel seriously impairs
20 clean vehicle technology. This evidence alone is ample basis
21 for EPA to require low sulfur fuel. The additional
22 information about the broad public health and environmental
23 benefits of low sulfur fuel makes an irrefutable case.

24 Nevertheless, the refining industry is seeking to
25 undermine EPA's proposal for cleaner, healthier air in the
26 West, claiming that since most areas in the West meet smog
27 standards, the reductions aren't warranted. This claim
28 fundamentally misapprehends the scope of EPA's regulatory
29 responsibility, which is to protect public health and the
30 environment.

31 The refineries' narrow view of the law does not
32 account for the many harmful effects of sulfur in fuel,
33 including its contribution to the "brown cloud" that pollutes
34 nearly ever large western city, the toxic air pollution from
35 cars and trucks that expose westerners to high risk of
36 cancer, the acid rain that threatens aquatic ecosystems at
37 Rocky Mountain National Park and at other areas in the West,
38 and the haze that cuts visibility in our revered national
39 parks and wilderness areas to a fraction of their natural
40 conditions.

41 The refining industry seeks to derail EPA's
42 rulemaking, claiming that EPA should reconsider its action in
43 light of the recent judicial opinion on the national ambient
44 air quality standards. First, we believe that this court
45 decision will be reversed. It is based on an anachronistic
46 legal doctrine that repeatedly, without exception, has been
47 rejected by the United States Supreme Court since the 1930s.

48 Moreover, this is the same claim that the refining
49 industry unsuccessfully invoked in the 1970s to derail EPA's
50 initiative to reduce the lead in gasoline. The full D.C.

1 Circuit rejected the claim that EPA's authority to regulate
2 lead in gasoline hinged on issuing national ambient air
3 quality standards for lead.

4 EPA's proposal has provided substantial compliance
5 flexibility for refineries to achieve the sulfur reductions
6 in fuel. Under EPA's proposal, all refineries are allowed to
7 "bank" early or excess reductions. This program extends the
8 amount of time over which refineries can prepare for
9 compliance, and provides additional compliance options.

10 In addition, EPA proposes to allow small refiners,
11 described as those having 1,500 employees or less, up to an
12 additional six years to comply. Thus, small refiners would
13 have up to a decade, until January 1, 2010, to fully comply.
14 This protracted implementation schedule will give small
15 refineries considerable flexibility by allowing them to
16 manage their compliance costs over a long time horizon.

17 We urge EPA to reject the calls by the refining
18 industry to further expand the already generous definition of
19 "small." EPA should firmly turn back attempts to create a
20 broad compliance loophole.

21 A recent study by MathPro, an industry consulting
22 firm, refutes claims by refineries that a requirement to
23 reduce low sulfur fuel would cause some refineries in the
24 West to shut down, and disrupt fuel supplied. MathPro's
25 March 1999 study of refineries in the Rocky Mountain West
26 found that a low sulfur fuel requirement is unlikely to cause
27 refinery closures. The study found that the capital costs
28 associated with compliance are small relative to the
29 refineries' average cash operating margins.

30 The study indicated that the profit margins in this
31 region of the country are higher than other parts of the
32 country because geography and other considerations protect
33 refineries from outside competition. Further, the study
34 found that even if there were closures, fuel reductions would
35 be offset by decreased export of supplies outside the region,
36 by increased supplies from elsewhere in the country, and by
37 increased production. Currently, approximately 8 per cent of
38 the gasoline produced in the Rocky Mountain region is
39 exported elsewhere in the country. Further, all of these
40 findings by the industry consulting firm were made without
41 taking into account the significant compliance flexibility
42 EPA included in its proposal.

43 The support for low sulfur fuel in the West is vast
44 and varied. The major automobile manufacturers support
45 nationwide low sulfur fuel. The association of state and
46 local air pollution control officials supports nationwide low
47 sulfur fuel. Numerous public health and environmental
48 organizations representing millions of Americans support low
49 sulfur fuel in the West.

50 California began requiring low sulfur gasoline in

1 1996. Low sulfur fuel is being implemented in countries in
2 Asia, Europe and Canada. In January of this year, British
3 Petroleum/Amoco announced a program to voluntarily introduce
4 low sulfur fuel in 40 cities worldwide. We respectfully
5 request that western refineries put aside the strong-arm
6 tactics of their Washington, D.C. lobbyists, put aside the
7 calls to delay this important clean air initiative, and
8 instead, become industry leaders, not laggards, in
9 implementing low sulfur fuel.

10 It is widely recognized that eliminating the lead
11 from gasoline was one of the most important public health and
12 environmental developments in the last 30 years. If we
13 allowed oil refineries to set national policy, our children
14 would still be breathing harmful levels of lead.

15 In the 1970s, we got the lead out of gasoline. Now
16 it is time to get the sulfur out. At a few cents per gallon,
17 low sulfur fuel is a sound, cost-effective investment that
18 will realize tremendous health and environmental benefits.

19 The number of miles Americans drive in cars and
20 trucks has increased 127 per cent since the adoption of the
21 Clean Air Act in 1970. Those of us who live in the western
22 United States routinely witness the consequences of explosive
23 growth. In Colorado alone, drivers travel over 36 billion
24 miles per year. This dramatic increase in our driving
25 activity necessitates increasingly cleaner vehicles and
26 fuels.

27 Western air quality is a precious, valuable
28 resource to those of us who live in the Rocky Mountain West.
29 We respectfully request EPG to finalize a strong, nationwide
30 low sulfur fuel standard along with enhanced tailpipe
31 standards, and to act without delay.

32 Thank you very much.

33 MS. OGE: Thank you. Ms. Josephine Cooper, good
34 morning.

35 MS. COOPER: Good morning. I'm Jo Cooper, President of
36 the Alliance of Automobile Manufacturers, a coalition of
37 automobile and light-truck manufacturers, which include BMW,
38 Daimler-Chrysler, Fiat, Ford, General Motors, Mazda, Nissan,
39 Toyota, Volvo and Volkswagen, with more than 642,000
40 employees in the U. S., 255 manufacturing facilities in 33
41 states. Our members are responsible for more than 90 per
42 cent of U. S. vehicle sales.

43 The automobile manufacturing industry has done more
44 than almost any industry in reducing emissions, and we're
45 very proud of our record. Our commitment is evidence in our
46 voluntary initiative, the National Low Emissions Vehicle
47 program, where we're already producing cleaner vehicles than
48 EPA could have required by law, and sooner.

49 The auto makers are stepping up to the plate on the
50 Tier 2 program to achieve the goals EPA has laid out.

1 However, the auto makers cannot do it alone. Much cleaner
2 fuels are also needed to make the program work. EPA, we
3 believe, has an opportunity to clear a path for future
4 advanced technology vehicles, and the ultra clean fuels
5 needed to power them.

6 The Alliance fully supports the air quality goals
7 of this rulemaking. In fact, the Alliance put forward a
8 proposal that can achieve even greater emission reductions
9 than EPA's proposal. We're very close on most issues. Our
10 proposal will propel us into the next century with the
11 cleanest fleet of vehicles in the world, further reducing
12 emissions from both passenger cars and light-duty trucks to
13 near negligible levels.

14 Like EPA, the Alliance proposal goes beyond proven
15 technology. It breaks new ground by requiring that cars and
16 light trucks meet the same average NOx levels, and assures
17 significant reductions in NOx emissions, more than would be
18 achieved with the EPA proposal.

19 This is not a proposal that says it can't be done,
20 or that asks for a free ride. It is a robust proposal that
21 recognizes our industry's important role and responsibility
22 in helping the U. S. reach its clean air goals. We don't yet
23 know how we will reach the goals that we set for ourselves in
24 our own proposal, but we are prepared to take on the
25 challenge. Can do is our attitude.

26 I want to stress some key elements of our proposal,
27 elements that must not get lost in the shuffle of the
28 rulemaking, elements necessary for Tier 2 to be successful.

29 First, improved fuels including near zero sulfur
30 will be needed to meet the clean air goals. Fuels and autos
31 operate as one system. Near zero sulfur fuels are needed to
32 enable the introduction of technology that is going to be
33 required to meet the tough new standards.

34 It makes little sense to mandate the production of
35 world-class vehicles and then run them on second-class fuels.
36 We applaud EPA's proposed reduction in fuel sulfur levels to
37 an average of 30 parts per million as a good first step
38 toward the fuel quality we need to reach the clean air goals.
39 30 parts per million is the sulfur level that California has
40 required since 1996. Clearly, the expansion of low sulfur
41 fuel from a California-only program to a nationwide program
42 is long overdue, along with California style volatility
43 control.

44 However, it's not enough to stop there at 30 parts
45 per million. On the vehicle side, the Tier 2 rule is an
46 aggressive new program of technology-forcing standards
47 comparable to those that California just adopted late in
48 1998. Before this year is out, it appears that California
49 will be taking another major step toward near zero sulfur
50 fuels to accompany its aggressive vehicle standards.

1 We need to take this critical second step at the
2 federal level as well, recognizing that 30 parts per million
3 sulfur is not an end point, but rather a stepping stone on
4 the way to near zero sulfur fuel.

5 Removing sulfur is both feasible and affordable.
6 The technology for sulfur removal is readily available and is
7 in widespread use in California, Japan, Europe and other
8 parts of the world. Recent announcements by ARCO, Tosco, and
9 BP Amoco show that members of the refining industry are
10 moving toward low sulfur fuels voluntarily. The evidence
11 indicates that the Alliance's proposal of near zero sulfur
12 levels can be achieved for a very modest cost, however,
13 recognizing the special circumstances that some small
14 refiners may face.

15 We need to get the sulfur out nationwide. Simply
16 put, sulfur is the lead of the Nineties because of the way it
17 poisons the catalyst. Auto/Oil studies have shown that
18 catalysts subjected to high sulfur fuel experience a loss of
19 effectiveness that cannot be recovered even after operation
20 on low sulfur fuels. In other words, the benefits are
21 cancelled out. Even the reduction in catalyst efficiency
22 caused by an increase in gasoline sulfur from 5 to 30 parts
23 per million can lead to a doubling in exhaust emissions, a
24 major change.

25 That's why a so-called regional fuel program is
26 unworkable, because vehicles travelling from a low sulfur
27 region into a high region will experience an unavoidable
28 degradation in the performance of their emission control
29 systems.

30 Sulfur removal is an essential enabler for new
31 emissions control hardware and new powertrain systems.
32 Emission technologies such as NOx traps may enable advanced
33 technology vehicles to achieve significant improvements in
34 fuel economy. Fuel cell vehicles may attain the as-yet
35 elusive goal of zero emissions that may appeal to a wide
36 market. These and other promising technologies to require
37 near zero fuel are a necessity. We can either put our heads
38 in the sand and ignore this need for near zero sulfur fuel,
39 or we can adopt regulations now to allow these technologies
40 to begin to appear in the marketplace.

41 Another important point. Auto makers need enough
42 flexibility in the rule timeline to allow for the invention
43 of the technologies necessary to make EPA's standards a
44 reality. The Alliance proposal agrees with EPA on the
45 endpoint of .07 grams per mile NOx fleet emission averages
46 for both passenger cars and light trucks. Getting there will
47 take time, and require us to clear a number of technological
48 hurdles.

49 The introduction of Tier 2 standards should be
50 accomplished in a two-phased approach set out in the Alliance

1 proposal, one round of emission reduction in 2004, and even
2 more aggressive reductions starting in 2008, when hopefully
3 near zero sulfur fuels would be in place.

4 A third key point. An independent third-party
5 feasibility study in 2004 is needed to make sure we're headed
6 in the right direction, and we can achieve the goals that EPA
7 sets. The study should be conducted by mutually agreed upon
8 experts to establish the feasibility of the second wave of
9 emission standards, based on the following four items. One,
10 five parts per million maximum sulfur fuels for both gas and
11 diesel engines; standard feasible for lean-burn technologies,
12 both gas and diesel; standards that pose no anti-competitive
13 impact; and standards that are cost-effective and affordable.

14 If major unexpected problems are encountered along
15 the way, the review process will give EPA an opportunity to
16 make mid-point corrections if necessary. None of us, not the
17 EPA nor the auto industry, can foretell the future and know
18 what problems may develop. With such a far reaching
19 technology-forcing standard, if development is on track to
20 meet the Tier 2 standards and we conduct the review, the
21 review will confirm the findings and the process will move
22 along as planned.

23 Last point. We want to ensure that the final Tier
24 2 rule continues to foster not freeze out advanced
25 technologies. The government/industry Partnership for a New
26 Generation of Vehicles has determined that four-stroke direct
27 injection is the most promising near-term technology for
28 meeting dramatically increased fuel economy within the next
29 ten years. EPA has concurred with this.

30 These lean-burn technologies, however, post
31 formidable emission control challenges. Today's catalytic
32 converters are extremely sensitive to the fuel required to
33 power them, and unless the EPA allows some flexibility in the
34 bins, these vehicles will not be able to be experimented with
35 and put on the market. The catalysts obviously are very
36 sensitive to sulfur. EPA can enhance the flexibility in Tier
37 2 without incurring any loss in clean air benefits
38 whatsoever.

39 In conclusion, we fully support EPA's goals. As
40 our industry steps up to the plate with cleaner vehicles, we
41 need our colleagues in the oil industry to do their part by
42 providing cleaner and cleaner fuels. Only by providing
43 world-class vehicles with world-class fuels can we realize
44 our full potential and ensure that future generations will
45 have not only the cleanest possible air, but also robust
46 transportation and energy industries primed to compete in the
47 21st century.

48 MS. OGE: Thank you. Mr. Jim Nokes, good morning.

49 MR. NOKES: Good morning. Thanks for the opportunity to
50 present Conoco's views on EPA's Tier 2 proposal. I'm Jim

1 Nokes, and I'm the President of Conoco's North American
2 Refining and Marketing Operations. We market in 21 states,
3 primarily in the Rockies, midcontinent and the Southeast, and
4 we have four U. S. refineries, Colorado, Montana, Oklahoma
5 and Louisiana.

6 Conoco really has a long-standing commitment to
7 protect the environment in which we operate. We really point
8 with no small amount of pride to the fact that we have
9 exclusively double hole tankers in our ocean going tanker
10 fleet. We've had zero significant environmental incidents in
11 the last two years. And our cooperative efforts with
12 agencies around the world we've used to address environmental
13 concerns.

14 Today, my comments are largely directed to Conoco's
15 perspective of sustainable development. And in this regard,
16 we strive to provide cost effective energy to support
17 economies all over the world, and in that way, in a way that
18 balances the needs of all stakeholders, preserves the
19 environment, and is financially sound.

20 In deciding how you will proceed with Tier 2, we
21 ask you to please keep in mind the following points from the
22 perspective of sustainable development. Conoco does not
23 believe EPA's national "one size fits all" approach is
24 balanced enough to really achieve the necessary reduction in
25 emissions at the lowest possible cost to the public. I know
26 there are many here who believe a national standard is
27 necessary on the basis that fuels with varying sulfur content
28 degrade the catalyst in the vehicle emission control systems.

29 However, this subject has been a matter of
30 considerable research, and the results of that research show
31 that this is not the case. The effects of sulfur on catalyst
32 systems are largely reversible, allowing for a regional
33 approach to be highly effective.

34 Also, imposing the same stringent sulfur reductions
35 everywhere, essentially requiring California style gasoline
36 from coast to coast, means that millions of people will pay
37 extra for fuels designed that would give them what they
38 already have, which is clean air. While higher fuel prices
39 may not be a severe burden to many, it is to some of our
40 customers, those particularly on fixed and low incomes.

41 Really, additionally, there are dark clouds on the
42 horizon for the refining industry, especially smaller, less
43 complex refineries, such as Conoco's refinery here in Denver.
44 The refineries that are small have less capability to
45 generate large capital investments that will be required to
46 meet regulatory requirements. EPA's Tier 2 proposal would
47 further weaken those small refineries, forcing them to close.
48 In some cases, the communities they serve would pay the price
49 in lost taxes, economic base and payrolls.

50 As everyone knows, the U. S. refining industry has

1 been running virtually at capacity, and higher refinery runs
2 will probably be needed to meet public demand for the
3 foreseeable future. Any refinery closures will make it more
4 difficult for our industry to adjust to supply disruptions,
5 like those recently experienced in California. Tier 2 will
6 further weaken the U. S. refining industry and ultimately
7 require higher imports of refined products, resulting in
8 higher prices and possible shortages.

9 It's important that we remember Tier 2 is not the
10 only regulatory issue facing the refining industry today.
11 There are a number of regulations and proposals that are
12 equally onerous for the industry. The cumulative effect of
13 these proposed regulations, if they are not implemented in
14 the most cost effective manner and focused on providing
15 realistically needed benefits, will jeopardize the long-term
16 sustainability of many of our refineries.

17 We also oppose the EPA's decision to base its cost
18 effectiveness evaluations on new but unproven de-
19 sulfurization technology. The industry needs, and in fact
20 deserves, the chance to fully evaluate which technology is
21 best, and achieve the desired goals before making our
22 investment decisions.

23 If you stick with the proposed timetable, the
24 industry will be forced to choose, choose between unproven
25 but promising technology, which may not work, or proven but
26 higher cost technology, which we already use. Clearly, the
27 choices have a negative supplier cost implication in either
28 case.

29 Additionally, the uncertainties of new technology
30 and the need to generate credits for banking strongly
31 supports pushing the deadline of 2004 back. We appreciate
32 the EPA's efforts to provide flexibility in banking and
33 trading, but for your efforts to be truly effective, more
34 time and different thresholds are needed.

35 Finally, I want everyone to understand that I'm not
36 here just simply to say no today, but I must repeat that we
37 don't believe the proposed "one size fits all" approach is in
38 the best interests of the public.

39 Conoco supports efforts to bring all areas of the
40 nation into compliance with national air quality standards,
41 and we support lower sulfur gasoline in areas where it's
42 needed to help meet those standards. In fact, the average
43 sulfur level in Conoco gasoline is 150 parts per million in
44 the Rockies, and under 200 parts per million for our overall
45 system. These levels compare to a national average of around
46 330 parts per million.

47 It really is gratifying that reformulated fuels and
48 an improved vehicle emission systems have contributed greatly
49 to the improvement in the air quality in many areas of the
50 country over the past few years. But it's the non-attainment

1 regions that really require special attention. In contrast
2 to the proposed Tier 2 rule, we believe API's regional
3 proposal would generate meaningful improvements in air
4 quality in the most cost effective manner.

5 I really can't help but believe that if the same
6 industry controlled the production of motor fuels and
7 vehicles, the more cost effective method of achieving Tier 2
8 standards would be possible.

9 In closing, it's Conoco's hope that the recent PM
10 and ozone court decision, which we believe undermines the
11 justification of the current Tier 2 proposal, provides an
12 opportunity for EPA to reconsider the API regional plan.

13 Thank you.

14 MS. OGE: Thank you. I'd like to ask Dr. Berger to give
15 us his statement at this time, since you have to go back to
16 the hospital. So we'll make some time for you. Good
17 morning.

18 DR. BERGER: Good morning. Thanks for allowing me to
19 step in here. I do have to get back to my hospital and my
20 patients in Boulder County. So thanks for letting me in
21 here.

22 My name is Paul Berger. I'm a family practitioner
23 from Boulder, Colorado. I work at Boulder Community Hospital
24 and Avista Hospital. And I was asked by COPERG actually to
25 come today to speak about if there's any connection between
26 air pollution and health.

27 As we were discussing whether I could come in here
28 today, I had jury duty as well this morning, they mentioned
29 to me that SUVs, one of the topics of today was that SUVs had
30 some exemption from some of the standards for auto emissions,
31 and I thought oh, my God, I have an SUV. I had no idea that
32 my automobile was exempt from the standards that all the
33 other cars on the road had to live up to. Frankly, that was
34 embarrassing. And I found out today that there was some
35 chance that I might be able to retrofit my automobile and
36 that it might be relatively inexpensive, so I'm going to
37 start looking around and see if I can do that this afternoon.

38 The reason it's so important to me is because of my
39 patients. And my wife is not my patient, but she is an
40 asthmatic and I've sat up with her several nights in the last
41 couple of years wondering if I was going to need to take her
42 to the emergency room. And what I wanted to point out here
43 today is that this occurs more on high pollution days.

44 Now, all through medical school and residency and
45 training, and even now in my practice when we go to
46 continuing medical education, pulmonologists talk to us on a
47 regular basis about this connection, so this information is
48 not new. We have known for probably 20, 30 or 100 years that
49 air pollution causes more respiratory illness. I don't know
50 why it's taken us this long to work on some of these issues,

1 but I know we have been making some strides in the last 30
2 years.

3 So I don't have the first-hand references, the
4 original studies, I haven't looked for them recently, but I
5 can tell you that the pulmonologists and the allergists talk
6 to us on a regular basis about how important it is to keep
7 your asthmatic and emphysematous patients indoors on high
8 pollution days near the air purifier, near the humidifier.

9 There are other causes of asthma and emphysema. We
10 need to get people to stop smoking. And indoor pollution is
11 a problem. But if there is something we can do, then I think
12 we need to be doing it immediately. And when there's a
13 question of how quickly we can make these changes, I can't
14 speak to how quickly an industry can make a huge change, but
15 I sure wish it was done yesterday, because we've known this
16 for a long time.

17 I guess one more medical aspect I'd like to bring
18 up is that I have probably 200 patients with pulmonary
19 diseases, and I see them a lot more on high pollution days,
20 and sometimes they come in for a physical exam and it happens
21 to be a high pollution day. Well, they ask me if I can spend
22 an extra few minutes talking about their asthma because
23 they're having a really tough time. And I don't know how
24 many people here have respiratory diseases, but when you're
25 having an asthma exacerbation, you don't know if you're going
26 to be alive in the next ten minutes.

27 One of my staff members had a severe attack just a
28 few weeks ago. Frankly, I don't know if that was a high
29 pollution day, but it sure was scary to watch her. And on
30 high pollution days, I see a lot more of these patients, and
31 that's what the pulmonologists and the allergists tell us as
32 well.

33 So I guess that's all I have to say.

34 MS. OGE: Thank you. Dr. Berger, you made a statement
35 that SUVs are exempted from emission standards. That's not
36 the case. I just wanted to clarify it for the record. SUVs
37 do meet the emission standards, tailpipe standards, but they
38 are less stringent than passenger cars.

39 DR. BERGER: Yes, that's what I meant to say.

40 MS. OGE: Thank you for coming to share your views with
41 us this morning. Mr. Gerald Faudel, good morning.

42 MR. FAUDEL: Good morning. My name is Gerald Faudel,
43 and I'm vice-president of Frontier Oil Corporation, a small
44 business independent oil refinery. I don't happen to own an
45 SUV.

46 I wanted to thank you for the opportunity to
47 provide these comments regarding the proposed Tier 2 gasoline
48 sulfur regulations, and I would also like to again express
49 Frontier's appreciation for your agency's interest in and
50 consideration of the small business oil refineries that will

1 be most dramatically affected by these rules, and to welcome
2 back those of you who, as part of this rulemaking last year,
3 took the time to visit us in Cheyenne, Wyoming and experience
4 first-hand the many differences between a small business
5 refiner and the huge multi-national companies that most of us
6 think of when one mentions the oil industry.

7 As a result of your hard work and concern, I think
8 the agency's small business advocacy panel recommendations
9 are both environmentally sound and yet fair and equitable to
10 the small and large businesses alike.

11 Congress determined that the Small Business
12 Regulatory Enforcement and Fairness Act of 1996 was needed in
13 part since, "small businesses bear a disproportionate share
14 of regulatory costs and burdens," and that the, "fundamental
15 changes that are needed in the regulatory and enforcement
16 culture of federal agencies to make agencies more responsive
17 to small businesses can be made without compromising the
18 statutory missions of these agencies.

19 This agency has demonstrated dedication to the
20 SBREFA process and the resulting small business
21 accommodations proposed by the Tier 2 SBREFA panel that are
22 incorporated in this rulemaking are evidence not only of your
23 appreciation with regulatory problems small businesses face,
24 but more importantly, your willingness to work hard to find a
25 way to be more responsive to the needs of small business
26 without compromising your statutory mission as requested by
27 Congress.

28 We can't speak to the success of other agency's
29 SBREFA panels, but this one may give all of our country's
30 small businesses reassurance that the process really does
31 work as Congress intended. No one, however, should think
32 that the small refinery accommodations as proposed in this
33 rulemaking somehow exempt small entities from the national
34 standards or provide loopholes that could lessen the
35 environmental benefits that the agencies seek. Nothing could
36 be further from the truth.

37 For many small refiners, compliance with the
38 proposed rule will be difficult and costly. Frontier
39 estimated that it will cost approximately \$10 million for us
40 to meet our 2004 proposed standard. While this may not seem
41 like much to an Exxon, a Sun, a Tosco or a Marathon, for a
42 small independent like Frontier, achieving the proposed
43 limits, even within the small refiner time schedule, will be
44 a formidable task as we compete for engineering and design
45 firms, construction contractors, and the capital needed to
46 fund the refinery modifications. We have estimated the 2008
47 proposed target of 30 parts per million sulfur will cost
48 Frontier alone over 90 million additional dollars to reach.

49 Obviously, they must find ways to reduce that
50 amount if they are to survive beyond 2008. Even with the

1 small business accommodations, this rule will be hard,
2 perhaps unnecessarily hard, on many individual refiners and
3 on our industry. Without the small business accommodations
4 that you have proposed, many small refiners, including
5 Frontier, would likely not survive beyond 2004.

6 The continued viability of the small refiner sector
7 is, however, dependent not only on the promulgation of the
8 proposed small refiner accommodations, but also on the
9 successful commercialization of new, more cost effective
10 gasoline de-sulfurization technologies, couple with a very
11 cautious and well reasoned approach to future regulatory
12 burdens, such as additional diesel de-sulfurization.
13 Although a widespread failure of this nation's small refiners
14 might benefit those of our competitors that have voiced their
15 opposition to the small business accommodations you have
16 proposed, the effects would be just the opposite for the
17 American consumer, as we have recently seen in California.

18 It is often said that California is the bellwether
19 for the nation. Perhaps it is time to look at the California
20 condition as more of an early warning system than as a
21 harbinger of the fate that the rest of the nation is destined
22 to suffer. We can learn from their mistakes.

23 Senator Barbara Bottzer of California stated in a
24 recent letter to FTC Chairman Robert Brotofsky, "In the past
25 four weeks, gasoline prices have increased more than 50 per
26 cent at some Bay area outlets. In other areas of California,
27 reports of 33 per cent increases are commonplace. While
28 external events have certainly contributed to these price
29 increases, I believe their effects have been magnified and
30 exaggerated by the lack of fair competition in the California
31 marketplace." Senator Bottzer goes on to say, "Ensuring the
32 survival of independent competition to the big oil companies
33 will help ensure that prices do not rise unfairly."

34 Frontier believes that the small accommodations
35 proposed in the Tier 2 rulemaking are designed to help ensure
36 survival, and will go far in protecting the rest of the
37 nation from some of the problems California is experiencing
38 as a result of the demise of that state's small refining
39 community.

40 I encourage you to hold fast to your principles and
41 your responsibilities, and finalize the small business
42 refiner accommodations as recommended by the panel if the
43 proposed national program and limits are promulgated.

44 I will be less than honest, however, if I didn't
45 tell you that Frontier remains thoroughly unconvinced that a
46 national gasoline sulfur standard is the most cost effective
47 way to address the localized air quality concerns for the
48 northeastern and Gulf Coast states, particularly since the
49 consumers in the western states will be forced to bear larger
50 fuel cost increases than those in the targeted poor air

1 quality states.

2 The Rocky Mountain region of our country is an
3 expansive, relatively sparsely populated area that has been
4 traditionally served in large part by small often
5 independently owned oil refineries. It is a region that has
6 few air quality problems, and virtually no areas that are in
7 non-attainment with the national ambient air quality standard
8 for ozone, the primary target of the agency's Tier 2 program.

9 The western region is also an area where people
10 drive more than the national average due to the greater
11 distances between population centers and, therefore, consume
12 more fuel per capita than the national average.

13 To illustrate this concern and its relevance, the
14 most recent American Automobile Manufacturing Association
15 data shows that the average licensed driver in Maryland
16 travels 13,000 miles annually by car, and the Virginia
17 driver, 14,500 miles annual, for an average of about 13,800
18 for these two neighboring states in the northeast. By
19 contrast, the average licensed driver in Wyoming drives his
20 automobile 19,332 miles per year, or 40 per cent more miles
21 and, therefore, needing 40 per cent more fuel per licensed
22 driver than his counterpart in those eastern ozone non-
23 attainment regions.

24 Not only must consumers in this region use more
25 gasoline due to our geography, but if these national proposed
26 standards are finalized, Rocky Mountain drivers will be
27 forced to absorb a higher per gallon increase in cost than
28 the rest of the country due to the higher costs that our
29 regional refineries will incur to comply.

30 Even the auto industry's paid consultant, MathPro,
31 recently concluded that the gasoline de-sulfurization costs
32 in the Rocky Mountain region would be two to three times the
33 per gallon costs that the EPA has estimated for the rest of
34 the nation--two to three times.

35 As a consequence of the greater regional fuel costs
36 and greater consumption, any increase in the costs of fuel
37 resulting from a national gasoline sulfur standard will
38 impact the consumers in these western regions to a much
39 greater extent than it will impact those consumers living in
40 the more concentrated areas of our nation where the air
41 quality problems targeted by the Tier 2 standards actually
42 exist.

43 We continue to believe it may be more cost
44 effective for the agency to tax the automobile manufacturing
45 industry with the development of automobile emission control
46 systems that offer greater fuel sulfur tolerance. This can
47 likely be achieved by using dual catalysts, close coupling
48 catalyst systems to engines, or developing catalytic systems
49 that will routinely regenerate themselves by known
50 mechanisms, such as periodic fuel rich operation.

1 We do not doubt that the auto industry when they
2 say that they have failed to find a sulfur tolerant emission
3 control system. What they don't say is that they haven't
4 spent a whole lot of time looking.

5 In a report prepared for the EPA by Energy and
6 Environmental Analysis, EEA, in 1997, and entitled "Benefits
7 and Costs of Potential Tier 2 Emission Reduction
8 Technologies," the agency contractor states, "Despite
9 advances in the understanding of fuel sulfur impacts and
10 efforts by catalyst manufacturers to design systems more
11 tolerant to fuel sulfur, it is not apparent that the auto
12 industry has undertaken a dedicated effort to evaluate
13 technology responses with the potential to alleviate the
14 emission impacts of high sulfur fuels. For example, EEA was
15 unable to find any research papers investigating the
16 potential of addressing fuel sulfur through engine based
17 technology advancement. Can fuel sulfur sensing and feedback
18 systems be used to tailor engine operation or emission
19 control systems performance in accordance with end use fuel
20 properties? Or can active systems be designed which respond
21 to sulfur driven catalyst de-activation by periodically
22 creating the necessary high temperature conditions necessary
23 to reverse or minimize sulfur poisoning effects, similar to
24 particulate generation systems. Research in such areas is
25 conspicuously lacking from the considerable sulfur studies
26 undertaken over the last several years. And without such
27 research, it will be very difficult to gain a proper
28 perspective on alternatives to or the cost effectiveness of
29 automotive fuel de-sulfurization."

30 Considering the substantial costs associated with
31 the Tier 2 program to the consumer, and the devastating
32 impacts such costs may present to the many small and
33 independent domestic refiners, it would seem only prudent
34 that the agency should demand the development of this
35 important feasibility and cost information that its own
36 contractor has described as both "conspicuously lacking and
37 necessary to gain a proper perspective on significant
38 alternatives to or the cost effectiveness of automobile fuel
39 de-sulfurization."

40 Thank you very much for your time, and welcome back
41 to Denver, those of you who came to Cheyenne. Thank you.

42 MS. OGE: Thank you. Mr. Cackette, good morning.

43 MR. CACKETTE: I have some overheads here.

44 MS. OGE: We're not going to subtract time from you when
45 you're setting this, so you'll still have ten minutes.

46 MR. CACKETTE: Thank you for inviting me here today. I
47 want to start off by letting everyone know what California's
48 interest is in these associated rulemakings.

49 First of all, our greatest interest is in the
50 diesel fuel ANPRM, and there are a couple reasons for that.

1 One is that we believe there's a strong need for nationwide
2 consistent low sulfur diesel fuel standards to allow the
3 enablement of dense after treatment for diesels, and not just
4 for diesel passenger cars and SUVs that are coming into the
5 marketplace, but for diesel trucks, heavy trucks, which don't
6 get much focus in this rulemaking discussion.

7 Second of all, I want to point out that this alone
8 could probably provide more emission reduction than all the
9 other aspects of the proposal tied together. So it's of
10 great concern, and we certainly don't want to see it on the
11 back burner because it's at an earlier stage of development
12 in the rulemaking process.

13 Second of all, we are interested in the Tier 2
14 standards, because about 20 per cent of the cars that end up
15 in California's roads end up being registered in California,
16 were originally purchased outside of our state, and so they
17 don't meet our more stringent emission standards. So we
18 benefit by national standards.

19 And finally, on reformulated gasoline, we have it,
20 and all we wanted to do there is just share a couple of
21 thoughts on the experience that we've had.

22 Our air quality needs are very large, as you know,
23 especially in the Los Angeles area, and we've concluded that
24 we need about 70 to 90 per cent lower NOx and PM emissions
25 from heavy duty trucks. Your proposal is correct to focus on
26 low sulfur. It's clearly the fuel parameter that is the most
27 important one to achieve these air quality needs.

28 The emerging after-treatment technologies we think
29 should define what the allowable sulfur level is, and I think
30 the comprehensive report by NICA, which outlines the emerging
31 technologies and what the impacts of sulfur are on those,
32 dictates that the standard be set nationwide consistently at
33 least no more than 30 parts per million sulfur, and perhaps
34 lower for some of the more promising high efficiency after-
35 treatment technologies.

36 And the other factor here is that we need to do
37 something about the off-road fuels. Sulfur level is just
38 inordinately high in those, and it affects the availability
39 of technologies, both after-treatment and perhaps other more
40 common technologies emerging and transferring from the trucks
41 to the off-road engines.

42 I have a couple of slides just to illustrate a few
43 of these points. As to how important the diesel fuel issue
44 is, this just simply shows what the NOx emissions are from
45 heavy duty diesel vehicles in Greater Los Angeles compared to
46 light-duty vehicles in the absence of LEV 2, which would be
47 in the absence of Tier 2 in your case. You can see there's
48 greater emissions from them, and so that's where the focus I
49 think has to be on diesel fuel.

50 Next one just shows what we've accomplished with

1 our reformulated fuels in California, and you can see the
2 points we wanted to make is that we're already down about 100
3 ppm, but we need to go lower, but we simply can't do that on
4 our own because diesel trucks and much large off-road
5 equipment is used in interstate commerce. And if we're going
6 to have after-treatment on this equipment and it gets
7 poisoned every time it's outside of California, it's simply
8 not going to work, and the levels of fuel sulfur in current
9 on-road fuel and especially in off-road fuel are far in
10 excess of what's acceptable for enabling these new
11 technologies.

12 To summarize the benefits of low sulfur fuel, you
13 get direct reductions in sulfur and sulfate formation, it
14 directly reduces the particulate emissions from diesel
15 engines. It will preserve the important agreement and
16 rulemaking that you adopted for off-road equipment, which we
17 call the Tier 3 standards which go into effect mid next
18 decade. And if these standards are going to use the transfer
19 technology from on-road trucks, that 3,300 parts per million
20 sulfur is a major barrier to that use.

21 And, finally, what I've been talking about, the
22 enablement of 70 per cent or greater effective after-
23 treatment, is absolutely predicated on having low sulfur
24 fuel.

25 We've done some cost estimation based on our
26 experience with reformulating fuel, and it looks like going
27 from where we are now in the low 100 range to around 30,
28 gives you something like three cents a gallon, at least for
29 the California scenario, and a very cost effective \$4,000 a
30 tone.

31 I'll switch to the Tier 2 standards. As you know,
32 and your rulemaking documents clearly identify, we adopted
33 what we call LEV 2 last year. The NOx standards are nearly
34 identical to what's proposed in your Tier 2 rulemaking,
35 although we have more stringent hydrocarbon standards in
36 California because many of our areas require both NOx and
37 hydrocarbon reductions to achieve air quality standards.

38 We demonstrated the feasibility on the heaviest SUV
39 in those categories, and just a couple of engineers in a
40 couple of months in the lab were able to get emission levels
41 down below those standards. And, in fact, during the
42 negotiations, the AAMA at the time offered in fact to lower
43 NOx for cars even below what we proposed and ultimately
44 adopted by about 20 per cent. We didn't accept that because
45 it was a trade-off issue, but it goes to demonstrate their
46 confidence in the technology being available. And the costs
47 are low, roughly \$100 for a passenger car and \$200 for a
48 sport utility vehicle.

49 A couple of slides just to illustrate these points.
50 This shows the fraction of the proposed NOx standard for

1 heavy trucks that we demonstrated on the Expedition and then
2 just by comparison, you did the same thing on a similar
3 vehicle, I guess an LDT3, and we both came below the standard
4 with catalysts, and we weren't able to do, and you weren't
5 able to do all the things that the auto manufacturers are
6 able to do to reduce emissions. So the fact we got there
7 just by improved catalysts and a few minor calibration
8 changes, I think demonstrates the feasibility of this.

9 I want to comment on the significance of Bin 7,
10 because I think it can get misdirected here. Bin 7 is one of
11 the seven categories of emission standards that a
12 manufacturer can choose to meet in meeting the fleet average,
13 and it has the most lax standards, and in many people's
14 minds, it's the lean-burn standard, but I'll just be straight
15 and call it the diesel standard.

16 We actually proposed something similar in
17 California, but our board of directors rejected it and said
18 that every vehicle should meet this 0.07 flat across the
19 board NOx standard, which can only be achieved with
20 absolutely the highest efficiency after-treatment.

21 Bin 7, if you're going to keep it, and some of the
22 testimony, including STAPPA's testimony, which we support,
23 suggests that maybe you don't keep it, or that you lower the
24 standards, but what's important about it is that you keep it
25 at least as stringent as it is, and resist relaxation.

26 Right now, I think it's probably adequately tight
27 to force after-treatment technology, but a relaxation will
28 probably mean that it's not, and this is an important
29 opportunity, because there are market forces wanting to put
30 diesels into larger sport utility vehicles, to put the
31 pressure on to develop good after-treatment.

32 And what do we want out of that? We want it on
33 heavy duty trucks. It's got nothing to do with the SUVs.
34 It's got to do with making sure that technology is available
35 so it can go on heavy duty trucks where the greatest emission
36 reductions are. Here's an opportunity to do it, but you
37 won't do it if the sulfur and diesel fuel isn't at least 30
38 ppm or less.

39 On the gasoline sulfur NPRM, again I'm just
40 offering some comments. They're obviously similar to ours,
41 the 30 ppm average and 80 ppm cap. We're actually averaging
42 in the fleet now about 20 ppm, for a pooled average of fuel,
43 but we don't think that's low enough, and this December,
44 we'll be proposing some new regulations to further reduce
45 sulfur, and with the objective of dropping the average,
46 greatly reducing the cap. And the two benefits of that would
47 be lower end use emissions from all the catalytic equipped
48 vehicles, especially LUV vehicles, on the road today, and
49 also it will open the door to enabling higher efficiency
50 engines, such as lean burn gasoline engines, which can help

1 with global warming issues.

2 And I thought I'd share--the other point I thought
3 I'd share with you that you may find relevant is sort of a
4 cost comparison of our RFG 2. Now, for those in the
5 audience, RFG 2 is not just low sulfur fuel, but it's also
6 low benzine, low olefin, low T-90 distillation curve. It's
7 got a whole bunch of parameters in it, and when we adopted
8 this in 1990, we had the industry doing modelling studies,
9 like MathPro and those kind of studies, showing it was going
10 to cost 23 cents a gallon. We thought, using the same kind
11 of models, different assumptions, about 15 cents a gallon.

12 We revisited it in 1996 and found out that the
13 capital expenditures for refiner modifications were down by a
14 couple billion dollars from what the projections were, and so
15 it came out around 10 cents a gallon. But the actual price
16 difference of our gasoline compared to neighboring and non-
17 neighboring states as far back as New York show that actual
18 price--the ones on the left are costs--was about 5.4 cents a
19 gallon for the '97, early '98 period. So this fuel, which is
20 substantially reformulated, turned out to be quite a bargain
21 from our viewpoint.

22 Conclusion; we think you did a great job on the
23 proposals. If we were doing it, we'd do exactly--pretty much
24 exactly the same thing you were doing. But we do ask you to
25 accelerate the diesel fuel rulemaking, catch up with the
26 NPRMs for cars and for gasoline, so that you have a uniform
27 package, and keep uniform standards nationwide, especially
28 for diesel fuel. And try to hang onto Bin 7. Don't relax
29 emission standards.

30 Thank you.

31 MS. OGE: Thank you.

32 Mr. Cackette, this is the fourth day of public
33 hearings, and we have heard a number of testimonies,
34 including Mr. Faudel this morning, that have made reference
35 to the California experience in reducing sulfur in gasoline.
36 And we have heard statements to the fact that by lowering
37 sulfur in gasoline in California you have supply problems,
38 price spikes, and more critically closure of small refineries
39 as a result of this action that the state has taken.

40 Could you just tell us what do you think the
41 experience of the state is with this proposed and formalized
42 fuel program? Would you please? -- experience.

43 MR. CACKETTE: Well a couple of facts. We produce the
44 vast majority of our fuel comes from the northwest coast
45 states and in California itself. In refinery nomenclature
46 we're PAT 5, which is kind of a somewhat isolated set of
47 refineries.

48 When we have breakdowns in major refineries we tend
49 to have a higher volatility in the marketplace, and what
50 happens is, it's the classic textbook definition of

1 hysteresis, prices go up fast and they come down slow. And
2 these people make a lot of money, a transient situation.

3 We have experienced that a couple of times. We
4 experienced it when we first put gasoline in place, and we
5 experienced it earlier this year when there were two not
6 related to reformulated gasolines, but two major refinery
7 explosions that shut down refineries and reduced capacity.

8 When you reduce supply, price goes up. What
9 happened was when that did occur, is that ships started
10 leaving Houston bringing California reformulated gasoline,
11 which can be made at many refineries--particularly in limited
12 volumes--to California. And when that supply hit the price
13 started going back down.

14 Where we differ from other areas of the country is
15 that takes some time, which is--if you have nationwide
16 consistent standards I don't think--I think it would be much
17 more isolated from those kind of supply problems.

18 And when you look at many areas of the country like
19 the northeast, they have a fairly large variety of ways of
20 getting fuel. They get it from ship, they get it from
21 pipeline, they get it from their own refineries. We're
22 somewhat more isolated.

23 So the situation in California that spikes the
24 prices are somewhat extreme there, and I don't think would be
25 the things that you would experience on a national level
26 nearly to the degree we have.

27 MS. OGE: The second question for you, Mr. Cackette, we
28 heard from Ms. Cooper this morning that the alliance has
29 proposed a \$5 billion sulfur program to be considered at the
30 national level. We understand that your office is looking to
31 5 ppm level.

32 Could you tell us to what extent lower than 30 ppm
33 sulfur would be needed for the LEV 2 standards or would be
34 needed for other reasons that you mentioned this morning in
35 your statement.

36 MR. CACKETTE: Well we do not think that you need lower
37 than 30 ppm fuel for the LEV 2 standards. We did all of our
38 technology demonstration on fuel that was about 30 ppm
39 sulfur, and it clearly showed that it was adequate.
40 Commences--there is mostly reversibility on three-way
41 catalysts.

42 But if you lower sulfur lower than that, you do get
43 additional emission reductions. What is--I think this angle
44 will soon be available in time for your rule making,
45 hopefully--is the studies that are trying to determine what
46 is the response of vehicle emissions to low sulfur gasoline
47 between 30 and essentially zero.

48 And that data I do not believe are adequate to pin
49 it down with the specificity that's been suggested of, you
50 know, five versus 10. But it will be available soon and you

1 should be able to use it in your final rule making.

2 MS. OGE: Thank you. Any questions for--

3 MR. CACKETTE: But I guess the point I want to make,
4 though, on advanced technologies, is getting back to diesel,
5 but it may also be true for lean burn gasoline engines, is
6 all that talk is about--we just had was about what is the
7 benefit on existing cars. That's what we're looking at
8 lowering the sulfur level for.

9 But I think you have to look at the technologies
10 that can achieve even further reductions where other goals
11 like lower CO2 emissions, and let those technologies and
12 those goals define what the sulfur level should be. In the
13 case of diesel, it's clearly way lower than it is any--in
14 California or anywhere else.

15 And the technologies need to define the level.
16 That's why staff will propose 30 as a starting point, then a
17 revisit by EPA within a few years to see if it should not go
18 lower.

19 MS. OGE: Thank you. Any questions?

20 Thank you very much. Thank you for taking the time
21 to come and share your views with us. Thank you.

22 I will call the next group of panelists, Mr. J.
23 Sprue, Ms. Angie Farleigh, Mr. Bruce Polkowski, Mr. Clint
24 Ensign, Mr. Greg Green, Mr. John Schenden, and also Mr. Ken
25 Manley. Could you please write your names and your
26 affiliation?

27 Also would like to remind you to please give a copy
28 of your statement to the recorder for the docket. I guess we
29 have Mr. Reg Modlin for Mr. Esper. Good morning. Why don't
30 we start with you?

31 MR. MODLIN: Thank you for the opportunity to speak to
32 the hearing on Tier 2 in Denver. My name is Reg Modlin. I'm
33 here today to speak on behalf of DaimlerChrysler on the
34 subject of EPA's proposed rules to modify vehicle emission
35 control regulations.

36 In our opinion the combination of the sulfur free
37 gasoline program with feasible, tough new vehicle standards,
38 could be of great assistance to the western states in
39 addressing both improved air quality and issues related to
40 reducing regional haze.

41 DaimlerChrysler is an industry leader when it comes
42 to supporting the development of environmentally sound
43 vehicle technologies. We demonstrated this in March when we
44 introduced the world's first zero emission hydrogen fuel cell
45 passenger vehicle, and in May when we discussed our research
46 on developing a gasoline fuel cell.

47 And we're demonstrating this commitment now by
48 supporting the pursuit of touch vehicle emissions performance
49 goals. Reducing emissions will help in achieving the
50 nation's clean air goals, including reducing regional haze;

1 and we stand ready to do our part.

2 As a member of the Alliance of Automobile
3 Manufacturers, we contributed to development of the
4 organization's position, and we fully support it. The
5 Alliance's proposal makes sense because it meets our
6 objectives and soundly beats the projected performance of
7 EPA's proposal. Compared to the EPA's proposal goals of
8 800,000 tons per year reduction in 2007 and 1,200,000 tons
9 per year in 2010, the program proposed by the Alliance could
10 achieve about 957,000 tons and 1,248,000 tons per year
11 reductions in the same time frame.

12 DaimlerChrysler supports a program in which car and
13 light truck standards for nitrogen oxides eventually converge
14 to a comparable level, provided that an independent review in
15 2004 verifies four key points. One, the price of emission
16 reduction is cost effective and affordable to our customers;
17 second, the program is based upon the use of gasoline that
18 limits sulfur content to less than five parts per million;
19 third, the standards are feasible for fuel efficient lean
20 burn technologies; and the fourth, standards do not adversely
21 affect any company relative to others in the industry.

22 With these points in mind, I emphasize once again
23 that we believe that removing sulfur from gasoline is
24 critically important to give auto manufacturers a chance to
25 meet the nitrogen oxide fleet average objective.

26 Sulfur is a poison to exhaust treatment devices. A
27 nation wide program is required to address this issue.
28 Everyone from New York to Montana deserves cleaner air.
29 Ozone may be the issue in the east and the Ohio Valley, where
30 regional haze is the issue in the west.

31 From a quick look at data available from research
32 conducted in Colorado, we estimate that overall regional haze
33 could be reduced by about five to eight percent by simply
34 removing sulfur from gasoline. We believe that these
35 reductions may be found to be far greater when a better
36 review is conducted.

37 But let's put this five percent reduction in
38 perspective. This hearing on Tier 2 is discussing the merits
39 of a program to reduce oxides of nitrogen emissions by about
40 eight percent. The merits of reducing sulfur to five parts
41 per million is relatively the same when looking at either
42 oxides of nitrogen reductions or particulate matter. States
43 in the west will have to look at adopting sulfur control
44 programs on their own if EPA does not.

45 Reducing sulfur content of gasoline is an emission
46 reduction strategy that promises to improve a variety of air
47 quality conditions across the country. The mobility of the
48 nation's vehicle fleet also demands nation wide sulfur
49 control. Allowing control systems to be poisoned in one area
50 so they can increase pollution in another simply does not

1 make sense.

2 We believe that these vehicles deserve cleaner,
3 world class fuel. Improved gasoline formulation is a
4 critical tool in the effort to reduce automobile emissions.
5 In the coming decade reducing sulfur will be seen as the most
6 effective immediate way to accomplish this goal.

7 Sulfur is a poison to the emission control system
8 that over time will clog the pipes and prevent the system
9 from working. EPA's proposal to reduce sulfur to 30 parts
10 per million is a good first step.

11 The sophisticated clean burning systems that auto
12 makers will develop to meet Tier 2 standards will be wasted
13 if sulfur in gasoline is not limited further by this rule.

14 Thank you for the opportunity to speak to these
15 issues.

16 MS. OGE: Thank you. Ms. Angie Farleigh? Good morning.

17 MS. FARLEIGH: Good morning. My name is Angie Farleigh,
18 and I'm the clean air advocate for the U. S. Public Interest
19 Research Group, U.S.PIRG. U.S.PIRG is the national lobby arm
20 for the state PIRGs, coalition of environmental and consumer
21 organizations across the country.

22 I greatly appreciate the opportunity to speak to
23 you today on this important and timely issue. Over the past
24 two weeks the 1999 smog season has descended upon most of
25 America. Already this summer millions of Americans have been
26 exposed to levels of air pollution that are unsafe to
27 breathe.

28 If this summer is like 1998, we can expect frequent
29 and widespread violations of the federal health standard for
30 smog, not just in our urban centers, but throughout the
31 nation. Last year the standards were violated 5200 times in
32 40 states.

33 What this means for people living in these areas,
34 as Dr. Berger has already talked about, is they could
35 experience declining lung function as a result of breathing
36 the air in their communities. For normal, healthy adults it
37 could mean not working or exercising outdoors, and over time
38 lung tissue damage that could be irreversible.

39 For children, the elderly and those with asthma,
40 high smog days mean missed work or school, not playing
41 outdoors with friends, hospital emergency room visits for
42 asthma attacks, increased susceptibility to infections and
43 other serious exacerbation of pre-existing heart and
44 respiratory disease.

45 Therefore new standards requiring clean cars and
46 clean gasoline are not just a good idea. They're absolutely
47 essential to protection of public health. Automobiles are
48 the single largest source of smog forming pollution, creating
49 nearly a third of the nitrogen oxide that causes smog.

50 While today's cars are cleaner than those two

1 decades ago, Americans drive more per year than ever before.
2 In 1998 we drove in excess of 2.5 trillion miles, more than
3 double the miles we drove in 1970.

4 In addition, Americans are driving bigger and
5 dirtier vehicles than ever before, with nearly half of all
6 new cars sold last year being light trucks, each of which can
7 pollute up to three times more than the average car.

8 Together the proposed Tier 2 standards and gasoline
9 sulfur standards comprise a strong, integrated approach to
10 reducing pollution from automobiles. There are many aspects
11 of the program that we applaud, some of which I will describe
12 below.

13 I will also describe several important ways in
14 which the Tier 2 program should be strengthened to prevent
15 unnecessary delays or complication in implementation, and to
16 avoid widening existing loopholes for bigger and dirtier
17 automobiles.

18 First we applaud the overall significant reductions
19 in pollution from the average automobile that will be
20 realized through the Tier 2 program. The .07 grams per mile
21 average standard for nitrogen oxides will make the average
22 car 89 percent cleaner than the regular Tier 1 standard of .6
23 grams per mile.

24 It is clear that while this standard is aggressive,
25 the technology to meet this standard is available. This
26 program will also harmonize federal clean car standards with
27 those adopted in California last November.

28 Second, we agree with EPA that the popular sport
29 utility vehicles must be treated no differently for pollution
30 purposes than cars. There is no longer an expectation that
31 SUVs will be used as work trucks. On the contrary, they are
32 widely acknowledged to be the station wagon of the 1990s,
33 rarely used for a purpose more taxing than taking a family to
34 the grocery store or soccer practice.

35 The justification for allowing SUVs to pollute more
36 is an artifact, and new standards should simply reflect the
37 new role SUVs play in our society.

38 Third, we agree that a nation wide sulfur standard
39 should be adopted to prevent the poisoning of sophisticated
40 new pollution control equipment. The automobile and the fuel
41 should be treated as a single system, and EPA has
42 appropriately proposed that new car standards be accompanied
43 by clean gasoline.

44 Moreover, we strongly agree that nation wide,
45 rather than regional, gasoline standards are critical to the
46 success of the Tier 2 program. As Americans we enjoy the
47 ability to drive from state to state, and as consumers we
48 would be outraged to have dirty gasoline damage our cars.

49 More importantly, we have air quality problems
50 across the nation, with violations of the health standard in

1 40 states last year. There is no region in the country that
2 would not benefit from clean fuels.

3 The oil industry representatives have argued
4 stridently for a slower phase in schedule for clean gasoline,
5 and increased flexibility for small refiners. We believe
6 that EPA's proposal strikes an appropriate balance between
7 achieving necessary pollution reductions and allowing the
8 industry ample time and flexibility to meet the new
9 standards.

10 EPA allows the industry to use an averaging system
11 to meet the standard, and allows the refineries to use
12 credits for early reductions to meet the standards. EPA also
13 allows less stringent caps in the first two years, and allows
14 the small refiners--a lot of which are here in Colorado--to
15 meet less stringent standards through the year 2007.

16 More flexibility than this is unwarranted and would
17 result in unenforceable, ineffective program. In fact, we
18 believe the EPA's proposed gasoline sulfur standards allows
19 too much time to pass before significant air pollution
20 benefits can be expected.

21 In 2001 auto makers will begin nation wide
22 marketing of low emission vehicles under the NLEV program,
23 National Low Emission Vehicle program. The effectiveness of
24 the emission control technology used in these vehicles will
25 be compromised by the sulfur that will remain at high levels
26 under 2004 to 2006, under the current proposal.

27 Moreover, EPA's proposal will allow gasoline
28 containing sulfur at levels up to 300 parts per million to be
29 sold in 2004, the same year that the Tier 2 standards will
30 take effect.

31 Again, the technological advances made in these
32 vehicles will be undermined by the use of high sulfur fuel in
33 2004 and 2005. A better approach would be to begin phasing
34 in clean gasoline earlier so that most if not all gasoline
35 sold in 2004 is clean.

36 While a strong first step, EPA's Tier 2 proposal
37 for auto emissions should be strengthened before it becomes
38 final later this year. I will highlight three important
39 changes that should be made to avoid complication, delay, and
40 the continuation of undesirable loopholes.

41 First, the EPA proposed allowing SUVs weighing
42 between 6000 and 8500 pounds an extra two years before the
43 Tier 2 car standards apply. There are a significant and
44 growing number of these larger SUVs on the road today,
45 including the Ford Expedition, the Dodge Ram, and Lincoln
46 Navigator.

47 EPA's proposal gives these models until 2009, a
48 full decade from now, before their exemption from the clean
49 car standards expires. We believe that special standards for
50 larger SUVs should expire immediately.

1 Second, EPA's proposal does not address pollution
2 from the largest and dirtiest SUVs of all, those over 8500
3 pounds. The number of these super SUVs is also rapidly
4 increasing, as the Ford Excursion enters the market to
5 compete the Chevy Suburban.

6 By not including these models in the Tier 2
7 program, EPA is giving auto makers an incentive to
8 aggressively develop ever larger SUVs. We believe that the
9 Tier 2 standards should apply the same .07 NOx average to all
10 classes of passenger vehicles, including those over 8500
11 pounds.

12 Third and finally, EPA's proposal will allow the
13 proliferation of diesel vehicles, the pollution from which
14 poses extremely severe health threats. A growing body of
15 research shows that diesel exhaust has particularly severe
16 health impacts. Smaller particles in diesel pollution are
17 associated with greater risk of premature death.

18 Moreover, studies repeatedly show a link between
19 diesel pollution and cancer, causing the State of California
20 to list diesel pollution as a human carcinogen. The highest
21 bin, the Bin 7, in the proposed average scheme is designed
22 specifically to allow more diesel powered vehicles, which
23 will continue to emit more toxic pollution than gasoline
24 powered automobiles.

25 The State of California considered and specifically
26 rejected a similar provision to protect its citizens from the
27 carcinogenic nature of the exhaust. EPA should similarly
28 remove the highest bin in the averaging scheme.

29 Again I would like to thank the EPA for allowing me
30 this opportunity to comment on the Tier 2 standards, and I
31 look forward to submitting more detailed written comments.

32 MS. OGE: Thank you. Mr. Polkowsky? Good morning.

33 MR. POLKOWSKY: Morning, Madam Chairman, members of the
34 hearing panel. My name is Bruce Polkowsky. I'm with the
35 National Park Service Air Resources Division, and I'm
36 grateful for the opportunity to speak to you today about your
37 proposed regulations calling for reduced tailpipe emissions
38 for motor vehicles as well as the reduction in sulfur content
39 of motor vehicle fuel.

40 The National Park System includes parks and
41 historic sites in every state, both in urban and rural
42 locations. And in your copy of my testimony there is a map
43 showing the extent of our system.

44 We have the responsibility to protect and preserve
45 the resources and values of these sites for future
46 generations. Air pollution and its effects on these
47 resources are the reason we support the EPA in its proposal.

48 Even taking into consideration the general trend
49 towards improving air quality, many areas--possibly including
50 lands administered by the Park Service--will not be in

1 attainment of the National Ambient Air Quality Standards in
2 2007 despite continued implementation of the National Low
3 Emission Vehicle program, regional transport programs, and
4 other pollution controls.

5 And areas that are in attainment will need further
6 programs to ensure that continued economic growth does not
7 degrade air quality. This is especially true to protect the
8 extraordinary natural scenic and cultural resources found in
9 the National Park System. Even at levels well below those
10 established for human health, air pollutants degrade these
11 resources.

12 Visibility impairment is the most ubiquitous air
13 pollution related problem in our national parks. Although
14 visibility degradation is more severe in the east,
15 significant visibility impairment has also been documented in
16 western national parks in relatively remote locations.

17 Even small amounts of fine particles in the air
18 degrade our ability to see the spectacular, panoramic scenery
19 of the western national parks. Steady and continuing
20 reductions of all types of air pollutants are needed to
21 restore natural visibility conditions.

22 Our researchers have documented air pollution
23 effects on biological and aquatic resources. Ozone injury to
24 native hardwoods and coniferous trees in the parks across the
25 U.S. This can lead to changes in plant community structure.
26 Another concern is acidic deposition of nitrogen and sulfur
27 compounds which affect water chemistry, which in turn affect
28 algae, fish, submerged vegetation, amphibian and aquatic
29 invertebrate communities.

30 Acidic deposition and particulate matter are also a
31 concern for the effect on historic monuments. Similar to
32 ozone, acidic deposition effects on park resources occur
33 nationally, including areas right here in the Rocky
34 Mountains, the Cascade Range, the Sierra Nevada Range, upland
35 areas of the eastern U.S., and eastern coastal areas. So
36 it's truly a national problem.

37 We have observed acidification of streams in
38 Shenandoah National Park and Great Smoky Mountains National
39 Park. National measures such as the current proposed rule
40 are needed to protect the natural wonders of our parts for
41 future generations.

42 Emissions from motor vehicles include many
43 pollutants including volatile organic compounds, carbon
44 monoxide, sulfur oxides, nitrogen oxides, and particulate
45 matter. In addition, through atmospheric processes, volatile
46 organic compounds and nitrogen oxides combine to form ozone
47 or smog.

48 Similar atmospheric processes turn gaseous sulfur
49 oxides, nitrogen oxides and gaseous volatile organic
50 compounds into fine particulate matter. This fine

1 particulate matter is both a health concern, and even in
2 areas of low concentrations this particulate matter can
3 contribute to visibility impairment.

4 The National Park Service has a long history of
5 tracking air quality and visibility effects on the lands it
6 administers. While some areas are showing improvement,
7 others have had recent increases in pollution such as ozone
8 and nitrate and visibility impairment.

9 In addition, all areas monitored for visibility
10 show frequent regional haze impairment. The recently
11 announced regional haze rules by EPA calls for the states to
12 establish programs to improve visibility in many of our
13 parks, especially here in the west. Emissions from motor
14 vehicles, including sulfur related compounds, are part of the
15 multi-source, multi-pollutant mix that impairs visibility
16 regionally.

17 As noted in our June 12 comments on the Tier 2
18 study, the National Park Service endorses EPA's proposal to
19 put on equal footing the control of emissions from light duty
20 vehicles and light duty trucks. Given the increase in sales
21 and use of light duty trucks, the proposed measures are cost
22 effective and will be needed to maintain health standards in
23 many areas, and make reasonable progress in addressing
24 regional visibility impairment nation wide.

25 This national approach is important for visibility
26 and other air quality related value concerns, even in areas
27 of the west where ambient measurements are well below the
28 current ambient health standards.

29 The National Park Service participated in the Grand
30 Canyon Visibility Transport Commission from 1991 to 1996, and
31 continues to work with western states and tribes through
32 their formation of their Western Regional Air Partnership to
33 address visibility concerns across the region.

34 The Grand Canyon Visibility Transport Commission
35 was composed of the governors of eight western states:
36 Arizona, California, Colorado, New Mexico, Nevada, Oregon,
37 Utah and Wyoming, and leaders of the Pueblo of Acoma, the
38 Hopi Tribe, and Hualapai Tribe, the Navajo Nation and the
39 Columbia River Inter-tribal Fish Commission, as well as
40 representatives from the EPA, the Park Service, the U.S. Fish
41 and Wildlife Service and the U.S. Forest Service.

42 The Commission was formed to guide EPA in
43 development of strategies to improve visibility in the desert
44 southwest. The Commission's recommendations, which were
45 endorsed by a majority of the governors, highlighted the need
46 to address mobile source emissions and the need for broader
47 application of cleaner fuels as part of the multi-source,
48 broad regional strategy to improve visibility.

49 The National Park Service still endorses the
50 Commission's recommendations and feels that EPA with this

1 proposal is following through on the Commission's approach of
2 addressing future regional mobile source concerns.

3 While the issues of current tailpipe emissions are
4 the thrust of EPA's proposal, the reduction of sulfur in fuel
5 is a key element to future air quality progress. A national
6 sulfur limit would be desirable if sulfur levels were needed
7 to permit future development of vehicle technology resulting
8 in significant reductions in overall emissions and in
9 reduction in fuel consumption.

10 Such technologies now being developed, such as
11 gasoline direct injection engines and fuel cells, may be more
12 sensitive to sulfur than current vehicles. These
13 technologies tolerate very little gasoline sulfur in order to
14 limit production of other unwanted pollutants. Therefore
15 gasoline sulfur removal is not only important to maintain
16 emission control potential of current vehicles, but is being
17 highlighted by many as an important new technology enabler
18 for the future.

19 Reducing the sulfur content of commercial gasoline
20 would reduce emissions from the current fleet of vehicles,
21 reduce sulfur dioxide and sulfate emissions from all
22 vehicles, and potentially enable advanced low emission and
23 significantly more fuel efficient vehicles for the future.

24 In summary, the National Park Service feels that
25 the time frame contemplated for the Tier 2 standards, there
26 will be a need for air quality emissions nation wide. The
27 control technology does exist today to reduce emissions of
28 all light duty vehicles, including light duty trucks.

29 And the cost effectiveness of the technologies for
30 addressing vehicle emissions and reductions in commercial
31 gasoline sulfur is within the range of other available
32 control strategies.

33 We urge EPA to promulgate the proposed rule, and we
34 intend to provide written comments on this proposal,
35 highlighting more information on the air quality concerns of
36 the National Park Service during the comment period.

37 Thank you very much.

38 MS. OGE: Thank you. Mr. Clint Ensign. Good morning.

39 MR. ENSIGN: Good morning. If I may I'd like to come
40 here. Good morning, my name is Clint Ensign. I'm with
41 Sinclair Oil. I do not own an SUV. I wish I did. I think
42 (inaudible). Welcome to the west.

43 MS. OGE: Thank you.

44 MR. ENSIGN: And thank you for the chances that we've
45 had to meet before. I want to thank Glen Passavant for
46 coming out here about a week ago to visit with us to inform
47 us on the Tier 2 gas and sulfur proposal.

48 The EPA had recognized in the rule making that
49 there must be a transition period starting at 2004 and going
50 to 2010 for the car and for the fuel as the nation makes a

1 transition period. And that's what I would like to focus on
2 today, is that transition period.

3 I agree with what has been said today, that there
4 are some remarkable things that the vehicle can do with low
5 sulfur fuel. And the goal--not just the goal--but what we
6 must do is to work towards making sure that we can achieve
7 those in the best way for consumers and for industry without
8 price increases.

9 I will take exception to what some of the other
10 commenters have said and the way they've characterized our
11 industry, the refining industry. The proposals that we have
12 made in gasoline sulfur, the words that I have heard from
13 Carol Browner, are that our proposal was constructed and
14 helpful rather than strident and those kinds of things. I
15 think that we really are trying to reach a solution here.

16 The Tier 2, the thing that triggers Tier 2
17 standards determined by Congress is whether we attain the NAC
18 standards or whether they're needed to maintain the NAC
19 standards. So my first chart comes from the proposal itself.
20 It's Table C-5.

21 If we did nothing with the car or with the fuel,
22 this chart shows the number of cities that would not attain
23 the NACs, and all of them are Houston and east. This is the
24 one-hour standard. If we were to go with the more protected
25 eight-hour standard there is no city in PAD 4, the Rocky
26 Mountain region, that would make the list either. So we live
27 in an area here that is clean.

28 Now there is--there are maintenance measures that
29 will take--that will go into effect, such as the low emission
30 vehicles. We don't have them here in the west yet. These
31 will run on gasoline that is currently available in the
32 marketplace today.

33 SUVs, there are some companies that have indicated
34 that they will voluntarily make SUV reduction--emission
35 reduction again on gasoline today. We have our proposal that
36 will make improvements in visibility and air quality
37 throughout the west. It's quite substantial.

38 We have the Tier 2 vehicle, and when these two are
39 added together there is a very constructive improvement in
40 air quality. And then there are other incentives in the
41 proposal.

42 Now there's been a lot of talk about visibility and
43 how well, if you don't need it for the NACs or if you don't
44 need it for maintenance purposes, we need California gasoline
45 sulfur control for visibility purposes.

46 And I grew up just outside of Yellowstone Park, and
47 I just absolutely love Yellowstone. On visibility, and the
48 gentleman from California mentioned it, the one area, the
49 fuel that is not well controlled now is the off-road
50 (inaudible), the jet fuel, the home heating oil and the

1 railroad and others.

2 Those levels of sulfur in those fuels are up to
3 5000 parts per million, whereas the average gasoline sulfur
4 average is 259. We feel that the cleaner, cheaper, smarter
5 visibility option in the west is going after those kinds of
6 things rather than--and I think we should do gasoline sulfur
7 as well--but that we have some time to phase in to low sulfur
8 gasoline.

9 The purpose of showing this chart and this chart
10 and talking about visibility is to simply say again during
11 that transition period from 2004 to 2010, there is not the
12 urgency that there is in the east for the most stringent
13 standard beginning at the front end of that program. We do
14 have some flexibility that is not available in the rest of
15 the country.

16 Now I would like to talk about California because
17 that's been mentioned as well. I think that the gasoline
18 sulfur standards in California, 30 ppm, is correct because
19 California has big air problems and they need it to help
20 their air quality.

21 But it has had an impact on the industry. In 1990
22 there were 32 refineries. The latest report from DOE shows
23 24 refineries. They've lost eight. They've lost nearly
24 300,000 barrels a day of refining capacity. It has had an
25 impact, and what it's done is that it has also impacted the
26 cost of fuel to consumers.

27 With this much product, 15 percent of their
28 capacity, removed, when they do have--when their big
29 refineries have problems, it does cause price spikes. Here's
30 USA Today with a picture entitled "California Screaming,"
31 showing \$2 a barrel--or \$2 a gallon prices at the pump.

32 Just within the last week the wholesale prices as
33 reported by Platz, in California compared to New York or
34 Houston, all three Gulf Coasts--all three port cities, all
35 three with big refineries, there is a 25-cent wholesale cost
36 difference between San Francisco and Houston or New York.

37 Senator Barbara Boxer from California--Jerry Faudel
38 with Frontier mentioned her--she has asked the FTC to look
39 into why prices are so high. There has been an effect here.

40 Now the concern that we had for the Rocky Mountains
41 is that when you look at the loss of capacity here in eight
42 refineries, it shows that it's the small refineries that
43 close. And in this region every single refinery is small.

44 Again we want to transition to low sulfur fuel, but
45 it's our size, the small size, are the ones that have been
46 hit the hardest. And we just simply need time to do that.

47 Now the last chart that I have shows the
48 governors--shows the states that are highlighted, that--where
49 they have sent EPA correspondence saying that we favor some
50 type of regional consideration as you look into--as you set

1 national gasoline sulfur standards; and the shaded area
2 represents nearly a million square miles of America.

3 And as you go to a national program, if that's what
4 you're going to do, please accommodate in some way the
5 regional interests of these governors, and make the rule
6 reflective of their interests. The air in these states are
7 cleaner than the rest. Many of them rely on small refineries
8 for supply.

9 Things like even the national LEV program had a
10 regional component to it, where the east started before the
11 west did. So there are many different ways to accommodate
12 regional considerations in a national program.

13 Let me now turn to Math Pro. That had been
14 mentioned this morning. Math Pro has actually done two
15 reports. One was for the refiners in December of 1998, one
16 three months later in March of '99--you know, one company,
17 two reports in three months. One says six cents a gallon,
18 one is about three and a half cents a gallon.

19 For Colorado consumers, to give them an idea, this
20 one is \$120 million. This one is about \$70 million. So the
21 costs are quite high. But what they do show is that the
22 small refineries do pay more for gasoline sulfur control

23 On the issue of banking and trading, we like
24 banking and trading, we think that that's a good idea. We
25 like being rewarded for early reductions. Again the
26 timelines don't work for us.

27 On the issue of this new technology, we think that
28 it's promising, that it can cut the cost of sulfur reduction
29 down; but we'll have to make--we'll have to choose our
30 technology by this time next year, and not enough will be
31 known about this new technology by then. We don't have a
32 refinery that is using it right now in America.

33 Again I thank you for your time. I'd be happy to
34 answer any questions.

35 MS. OGE: Thank you. Mr. John Schenden. Good morning.

36 MR. SCHENDEN: Good morning.

37 Good morning, my name is John Schenden. I'm a
38 Chrysler Plymouth and Jeep dealer here in the Denver metro,
39 Thornton, Colorado. I'm here today on behalf of both the
40 Colorado and the National Automobile Dealers Association.

41 The National Automobile Dealers Association or NADA
42 is a trade association representing 20,000 franchised
43 automobile dealers who sell new and used motor vehicles and
44 engage in automotive service repair and parts sales.
45 Together they employ in excess of one million people
46 nationally, yet over 80 percent are small businesses as
47 defined by the Small Business Administration.

48 Colorado Automobile Dealers Association, or CADA,
49 is a state trade association representing new car and heavy
50 truck dealers in the State of Colorado. I'm pleased to be

1 here today to address the Environmental Protection Agency,
2 Tier 2 emissions and low sulfur fuel proposal.

3 CADA and NADA enthusiastically endorse a tighter
4 set of vehicle emission standards as long as they are
5 appropriately enabled by low sulfur fuels, they can be cost
6 effectively achieved, and they will not have a negative
7 effect or impact on vehicles or power train availability.

8 CADA and NADA anticipate that several important
9 benefits will result from the implementation of the
10 appropriate set of Tier 2 emissions standards. These include
11 a significant contribution towards meeting the existing
12 National Ambient Air Quality Standards.

13 The EPA proposal significantly recognizes the
14 important role these new standards will play in helping
15 Colorado and states elsewhere across the country to achieve
16 compliance with the National Ambient Air Quality Standards.

17 In short, an appropriate Tier 2 low sulfur fuels
18 scheme will help to keep nonattainment areas in compliance,
19 and to keep attainment areas from becoming noncompliant.

20 A reduced need to regulate other emission sources:
21 an appropriate Tier 2 low sulfur scheme will help to reduce
22 the need to regulate other emissions sources. For example it
23 is conceivable that Colorado and other states will be able to
24 eliminate their tailpipe vehicle emissions inspection and
25 maintenance programs.

26 Also, with increased reductions in mobile source
27 emissions there will be less pressure to impose more
28 stringent emission controls on small business stationary
29 sources, including dealership body shops and service
30 departments.

31 In the past when EPA proposed new emissions
32 standards dealers raised legitimate concerns regarding
33 potential impact on vehicle drivability and performance--
34 that affects everyone--vehicle cost and vehicle power train
35 availability.

36 EPA should carefully consider these issues as it
37 moves forward with the development of its two tier low sulfur
38 fuel rules. EPA's new standards must not result in a reduced
39 vehicle drivability or performance.

40 Most all of our members in the late 1970s and early
41 1980s, when technology-forcing regulations directly
42 contributed to new vehicles with reduced drivability and
43 performance attributes. Dealers know all too well what such
44 product problems can mean--at the very least, irate
45 customers; worst yet, unsold new vehicles with their enhanced
46 emissions reduction benefits languishing on dealer lots.

47 EPA should be able to avoid causing drivability and
48 performance concerns by affording manufacturers the time and
49 flexibility necessary to design and produce power trains that
50 simultaneously meet both the Tier 2 objectives and market

1 expectations. This will be especially important with respect
2 to the proposed new and stringent standards for light duty
3 trucks--which are pickups, vans and MPVs--and for diesels.

4 Vehicle cost is always important to dealers and
5 consumers. If the marginal cost of achieving Tier 2
6 standards is excessive, consumers will shy away from new
7 vehicles and instead will continue to use older, less
8 emission efficient cars and trucks.

9 If anything, EPA's rules should work to incentivize
10 fleet turnover, not inhibit it. In addition to allowing
11 manufacturers the time and flexibility they need to comply
12 with Tier 2 standards, EPA can help keep costs down with a
13 rule that where possible is consistent with California
14 standards.

15 EPA's final rule must not restrict vehicles or
16 power train availability, if for no other reason than
17 avoiding inhibiting fleet turnover. Again, product
18 restraints can probably be avoided with adequate time lead
19 and flexibility.

20 This is of particular importance for light duty
21 trucks, for they today continue to take about 50 percent of
22 the market, and for diesel powered light duty cars and trucks
23 whose present small market penetration is expected to grow in
24 the not to distant future.

25 The success of EPA's proposed Tier 2 emissions
26 control strategy hinges on nation wide availability of low
27 sulfur certification and in-use fuels. Appropriate national
28 sulfur averages and caps must be set in order to enable new
29 emission technologies and to maintain the in-use efficiencies
30 of the Tier 2 program.

31 Dealers have made tremendous investments in tools,
32 training and parts necessary to service vehicles with onboard
33 diagnostic and advanced emissions controls. Effective
34 onboard diagnostics and advanced emission control systems
35 will depend on the availability of high quality in-use fuels.

36 Motorists and technicians should not find
37 themselves having to deal with fuel related false positive
38 onboard diagnostic readings, or difficult in diagnosing fuel
39 related emission problems. Any such problems could severely
40 undermine the public's acceptance of the Tier 2 program.

41 EPA's low sulfur fuel proposal provides small
42 refineries, many of which are located here in the mountain
43 states, with the flexibility they need to comply. Given the
44 mobile nature of our customers and the national scope of the
45 Tier 2 mandate, it is critical that EPA implement a low
46 sulfur fuel mandate that applies nation wide.

47 Just as an aside, as it affects the Denver metro
48 area, we need a national standard for fuel and vehicle
49 emissions. An example, the six-county metro Denver area has
50 a higher standard than the rest of the state, though visitors

1 and commuters that are outside the six-county metro area can
2 have vehicles with less stringent requirements. This doesn't
3 really make a lot of sense.

4 And also as an aside we talked about the extra
5 couple cents for the fuel costs. This morning when I was at
6 the dealership the gas station next door to the dealership
7 raised the price of gas seven cents a gallon with no apparent
8 additional benefit to the consumers.

9 On behalf of CADA and NADA, I thank the EPA for the
10 opportunity to comment on this matter, and would welcome any
11 questions.

12 MS. OGE: Thank you. Mr. Greg Green. Good afternoon.

13 MR. GREEN: Thank you, you made the transition from
14 morning to afternoon.

15 MS. OGE: We're there.

16 MR. GREEN: For the record my name is Greg Green. I'm
17 air quality administrator for the State of Oregon. In
18 addition to my testimony this morning I've also brought
19 written testimony with me from Oregon. Governor John
20 Kitzhaber is strongly in support of this rule also.

21 In terms of my own formal testimony, I would like
22 to congratulate the Environmental Protection Agency on the
23 proposed new standards for Tier 2 vehicles and low sulfur
24 gasoline. This proposal is a rare opportunity to achieve
25 significant pollution reduction on a nation wide basis in a
26 manner that is both technologically feasible and extremely
27 cost effective.

28 In addition to the important and obvious health
29 benefits that will be achieved by combining more advanced
30 vehicles with cleaner fuel, this proposal will also result in
31 important improvements in visibility in our national scenic
32 areas.

33 The State of Oregon fully supports the proposed
34 rule for Tier 2 low sulfur fuel and the advanced notice of
35 rule making on diesel fuel quality. This will be evident by
36 both my comments and the written comments I have supported
37 for Oregon Governor John Kitzhaber.

38 Today I am going to concentrate my comments on the
39 need for this proposal on the western United States. Certain
40 organizations opposed to this rule making have offered as an
41 alternative proposal regional standards that would provide a
42 lower level of protection to the citizens of the west than
43 those living in the eastern United States.

44 According to these sources our air quality problems
45 are not as severe as the east, and therefore the need for
46 these extremely effective pollution reduction strategies is
47 not as important.

48 The fact is that the western United States, all
49 areas west of the Mississippi, there are 92 nonattainment
50 maintenance areas with a total population of approximately 28

1 million people. This figure excludes the State of
2 California.

3 While Oregon has recently completed redesignation
4 of our two nonattainment areas for ozone, during the summer
5 of 1998 four regions of our state experienced exceedances of
6 the new eight-hour standard. Two of these regions
7 experienced multiple exceedances. With the growth in
8 population both in Oregon and the west as a whole any gains
9 we achieve through implementation of existing strategies
10 promises to be short lived.

11 Our goal should not only be to bring nonattainment
12 areas into attainment status, but to prevent marginal areas
13 from having future health and air quality problems in the
14 future.

15 Additionally the west has 131 Class 1 visibility
16 protection areas, which account for about 80 percent of the
17 national Class 1 areas. And this figure does include
18 California.

19 In Oregon we have 12 Class 1 areas where impairment
20 of visibility is of great concern to both our citizens and
21 the 10 million visitors that come to our state each year.
22 Emissions from motor vehicles are a contributor to regional
23 haze that is impairing visibility in many of these areas.

24 An important feature of this proposed rule is that
25 it combines two important strategies that will go a long way
26 towards improving air quality in our country. EPA's proposal
27 to establish new emission standards for light duty trucks,
28 minivans, and sport utility vehicles equivalent in stringency
29 to new passenger vehicle standards is exactly right.

30 Consistent with our love of the outdoors in Oregon,
31 some automobile manufacturers are advertising light duty
32 trucks and sport utility vehicles as necessary equipment to
33 properly live and play in the Pacific Northwest. These
34 vehicles are extremely popular and should not be allowed to
35 emit higher levels of pollutants when the technology exists
36 to curb their emissions.

37 The State of Oregon also strongly supports a
38 national cap on the sulfur content of gasoline at 80 parts
39 per million in the time frame proposed by the EPA.

40 In addition to the important emission reduction
41 benefits this new fuel would have on the nation's current
42 fleet of vehicles, it would be inexcusable to propose tighter
43 standards for our vehicles of the future and to power these
44 vehicles with dirty gasoline, especially when the technology
45 exists to produce this new fuel at a cost of approximately
46 two cents per gallon of gasoline.

47 That's a cost of about \$100 over the life of a
48 vehicle, which is a small price to pay for the health and
49 regional haze benefits that will accrue.

50 I also believe that EPA has properly recognized

1 that special provisions need to be made for small and medium
2 size refineries, particularly in the Rocky Mountain states.
3 The EPA has included provisions in the proposed rule that
4 will include economic incentives and flexibility such as
5 averaging, banking and trading. The rule also includes
6 generous compliance extensions for small refining companies
7 and those facing economic hardship.

8 I support these proposals, but also believe that
9 EPA should continue to explore the development of additional
10 mechanisms that can be included in the rule to assist these
11 smaller companies in complying with the new standards.

12 The Western Regional Air Partnership has tasked
13 their mobile sources forum with developing recommendations on
14 this important issue, and I encourage EPA to consider these
15 recommendations before the final development of this rule.

16 The Oregon Department of Environmental Quality and
17 Oregon Governor John Kitzhaber, through submission of his
18 written testimony, also support the EPA's advance notice of
19 proposed rule making for diesel fuel.

20 The same air quality issues that the EPA recognizes
21 and plans to address through this Tier 2 gasoline sulfur
22 proposal apply to diesel engines and diesel fuel. Technical
23 evidence is clear that low sulfur diesel fuel for both on and
24 off-road engines is needed to enable use of after-treatment
25 emission control technologies that can provide major emission
26 reduction of NOx and particulate matter from these engines on
27 the order of 75 to 80 percent.

28 Through these two proposed rules the Environmental
29 Protection Agency has taken two extremely important steps in
30 providing significant health protection to our nation's
31 citizens well into the 21st Century.

32 I urge the EPA to adopt the proposed Tier 2
33 standards and sulfur limits in fuel exactly as proposed to
34 allow Oregon and other western states the opportunity to
35 enjoy the same benefits as our partners in the east.

36 Thank you for the opportunity to testify.

37 MS. OGE: Thank you. Mr. Ken Manley. Good afternoon.

38 MR. MANLEY: Madam Chairperson, committee members.

39 Thank you for bringing this hearing to the State of Colorado.

40 My name is Ken Manley, and I'm the deputy director
41 for the American Lung Association, and I represent the
42 American Lung Association of Colorado. But more importantly
43 I represent the some 67,000 plus children that suffer from
44 lung disease in the State of Colorado.

45 As an organization we support proposed Tier 2
46 emission standards for vehicles and gasoline sulfur standards
47 for refineries. Being a part of this health organization
48 that I am, daily do I witness serious lung disease as it
49 relates to air quality issues.

50 Besides air quality issues, one of the other

1 culprits of course is tobacco and second hand smoke. But
2 primarily it's the mobile source emissions that causes the
3 emergency room visits here in the State of Colorado to go up
4 significantly on red pollution days as we see them.

5 We do not have a cure for asthma as yet. However,
6 knowing that there are solutions to prevent episodes through
7 cleaner burning fuel drives me and our organization to come
8 today here to make this testimony.

9 We have research data because we're fortunate to
10 have one of the greatest research centers here in Colorado,
11 National Jewish, leaders in pulmonary study, perform numerous
12 studies on the effects of air quality on children, especially
13 that suffer from episodes caused by mobile source emissions.
14 Testimony in written form with that research data will follow
15 this hearing.

16 Again we commend your efforts. We are behind the
17 proposed standards one hundred percent, and I speak for the
18 Alumni Association of Colorado, who are our national
19 association, is behind it again as well.

20 Thank you very much.

21 MS. OGE: Thank you. I would like to ask for Ms. Erin
22 Kelly to confer -- understand -- speak for 30 seconds, I'm
23 told. We're going to time you.

24 MS. KELLY: Thanks--do you have your timer set?

25 MS. OGE: (inaudible) speaking.

26 MS. KELLY: Oh, great. My name is Erin Kelly, and I'm
27 representing a group of friends of mine. I have John
28 Hawkley, Sam Seeger, Rebecca Steadman, Erin McCullough, Mike
29 McClure, Eric Yost, Shannon Anderson, Summer Sheffield, Brian
30 Satlack, Mario Ortega and Christy Forester, all of which felt
31 that this was an important issue.

32 We applaud EPA's Tier 2 and gasoline sulfur
33 proposal because it is a strong program that will lead to
34 dramatically cleaner cars. Specifically we agree with EPA
35 that new cars should pollute 90 percent less than today's
36 cars, and that a nation wide clean gasoline standard is
37 necessary to ensure that vehicle pollution controls remain
38 effective over the lifetime of the car; and that the popular
39 sport utility vehicles should be included in the program.

40 Specifically we have three important ways that we
41 believe are really strong. One is that no special treatment
42 should be given to bigger and dirtier SUVs. Secondly, no
43 special treatment should be given to diesel vehicles. And
44 lastly, clean gasoline should be available earlier to all
45 vehicles.

46 Again we really appreciate the opportunity to speak
47 on this important issue, and thank you for your time. We
48 really appreciate your standards.

49 MS. OGE: Thank you. I would like to thank all the
50 (inaudible) members including Ms. Kelly (inaudible) came here

1 today to share with us. (inaudible) your comments
2 (inaudible) are very important to us (inaudible) this week
3 and start thinking about the proposals we have made
4 (inaudible) forward and take steps to formalize this very
5 important program. (inaudible) Thank you very much.
6 We will (inaudible) back in this room and start
7 exactly at 1:15. Thank you.
8 (Adjourn at 12:25 for lunch.)
9 MS. OGE: We will start with the 1:15 panel. Will the
10 following individuals please come forward: Mr. Gary Herwick,
11 John Crnko, Tom Byers, Lisa Stegink, Brian Woodruff, and Mr.
12 Pete Naysmith. Please state your names (inaudible).
13 Is anyone else that has (inaudible) scheduled to
14 testify this afternoon that wish to make a statement? I
15 would ask you to please keep your comments to 10 or less, 10
16 minutes or less.
17 Mr. Gary Herwick, good afternoon. We'll start with
18 you.
19 MR. HERWICK: Thank you, I appreciate the opportunity to
20 testify this afternoon. My name is Gary Herwick. I'm a
21 manager of General Motors Public Policy Center, with
22 responsibility for fuels policy matters.
23 General Motors stands ready to work with EPA in the
24 months ahead to reach a final Tier 2 rule on vehicle emission
25 standards that is both effective and workable. A mutual goal
26 should be balanced regulation that will protect the
27 environment, preserve our customers preferences, and all the
28 pursuit of multiple engine control solutions.
29 (inaudible) industry sector has done as much as the
30 auto industry has to clean the air. (inaudible) highway
31 vehicle emissions have been reduced 60 percent (inaudible)
32 organic compounds, 44 percent for carbon monoxide, and 11
33 percent of oxides and nitrogen since 1970, despite a more
34 than doubling of the vehicle miles traveled.
35 Beginning with a voluntary industry national low
36 emission vehicle program in the year 2001, new vehicle VOC
37 plus NOx emissions will be 97 percent cleaner than 1970
38 models. (inaudible) seen earlier from the bold proposal made
39 by the Alliance of Automobile Manufacturers, we're willing to
40 do more.
41 We do need help though, because the vehicles and
42 fuels work as a single system. In contrast to the 97 percent
43 reduction in emissions required (inaudible) lead vehicles in
44 the 99 plus percent reduction proposed by the Alliance for
45 Tier 2 vehicles, fuel sulfur levels today remain uncontrolled
46 in this country.
47 GM applauds EPA's recognition of the need to lower
48 sulfur levels in fuels in its proposal to reduce average
49 sulfur levels by about 90 percent. Yet the EPA's proposed
50 sulfur levels do not go far enough.

1 Even lower sulfur levels are needed to enable the
2 catalyst in the vehicle to reach peak efficiency and to
3 assure the successful introduction of future propulsion
4 systems. There is much to be gained from the current vehicle
5 fleet by going from the 30 ppm level proposed by EPA to even
6 lower levels in the near zero area, as proposed by the
7 Alliance.

8 Some at today's hearing have expressed the hope
9 that catalyst technology will be developed that is less
10 sensitive to sulfur--the so-called sulfur tolerant catalyst;
11 and that the poisoning effects of sulfur on catalyst
12 operation could be reversible so as to avoid a national
13 sulfur control program.

14 With regard to sulfur tolerance, the Coordinating
15 Research Council, a joint research group composed of auto and
16 oil industry representatives, has investigated such a
17 potential technology, and has concluded that it does not
18 currently exist.

19 COC also recently investigated the reversibility of
20 sulfur effects on current low emission vehicles. This
21 irreversibility means that these vehicles will produce higher
22 emissions than they were designed to achieve. The USFTP
23 regulation which limits fuel enrichment is likely to increase
24 this amount of irreversibility.

25 As the auto industry increasingly relies on
26 catalysts to reach lower emission levels, the even lower
27 emission levels that are proposed in the Tier 2 rule, this
28 amount of irreversibility will result in more of a loss of
29 emissions control.

30 Finally, testimony provided by Honda at the first
31 Tier 2 hearing that was in the Philadelphia area indicated
32 that short term test programs such as the COC program had
33 likely underestimated the irreversibility of the sulfur
34 effect.

35 The Alliance proposal includes many aspects of
36 EPA's proposed Tier 2 rule, including the .07 NOx average
37 level. It is not limited to proven technology, but accepts
38 many technological challenges requiring invention
39 (inaudible), especially for more engine and emissions control
40 technologies.

41 Thus we are concerned that the EPA proposal lacks
42 the flexibility to accommodate these challenges, which may
43 limit our ability to develop advanced technology and could
44 restrict customer choice in the marketplace.

45 We are concerned that EPA's proposal precludes
46 advanced lean burn direct injection technologies which are
47 needed to improve fuel efficiency. The National Research
48 Council in its review of the progress of the Partnership for
49 New Generation of Vehicles has cited the EPA standards as the
50 largest challenge to the successful introduction of these

1 technologies.

2 We believe it would be a mistake for EPA to
3 discourage the advancement of these promising technologies
4 and to ignore the necessary balance needed between emissions
5 and fuel efficiency objectives.

6 In addition to the emissions benefits low sulfur
7 fuels bring to the current fleet, it is clear from work to
8 date that near zero sulfur levels in both gasoline and diesel
9 fuel, as proposed by the Alliance, are critical to the
10 development of these fuel efficient technologies.

11 Second, the time line in standard levels that are
12 proposed by the Alliance allow for the invention, development
13 and validation needed to ensure that the technology works
14 when it's in the hands of the consumer, and provides the real
15 (inaudible) benefit for which it is intended.

16 The EPA time line significantly increases the risk
17 of failure. EPA's proposed rule also increases the
18 stringency of the NOx standards for many of the 2004 and
19 later model vehicles which are not part of the Tier 2 phase
20 in.

21 These (inaudible) standards should not changed, but
22 should remain harmonized with the NLEV and California LEV
23 standards. That stability would allow us in the industry to
24 focus our limited resources on the interim Tier 2 and final
25 Tier 2 standards.

26 Clearly this is one of the most technology forcing
27 rule makings ever undertaken by the EPA, and ever faced by
28 our industry. The standards proposed by the Alliance, let
29 alone those proposed by the EPA, are significant stretch
30 objectives that require invention of new technology.

31 The standards also impact other objectives,
32 including fuel efficiency and advanced technology vehicles,
33 customer choice and the competitiveness of the US auto
34 industry. It is imperative that an independent study of the
35 program be conducted in 2004 in time to make new course
36 corrections to the 2007 (inaudible) requirements, if
37 necessary, to ensure that these objectives are properly
38 balanced.

39 Such a mid-course review becomes critically
40 important to air quality as well, because we are seeing a
41 growing body of evidence that further reductions in
42 (inaudible) NOx may actually have the effect of increasing
43 ozone levels in many of our most highly populated urban
44 areas.

45 GM is firm in its commitment to preserve the
46 environment, to provide clean vehicles, and to offer a
47 variety of products based on our customers' needs. But it's
48 clear that changes are needed to the proposed rule to meet
49 more of these goals at the same time.

50 We would work with the EPA and others as needed

1 during this critical rule making process to balance all these
2 needs so that we may continue to supply vehicles that our
3 customers want to buy.

4 Thank you.

5 MS. OGE: Thank you. Ms. Lisa Stegink? Good afternoon.
6 Welcome back.

7 MS. STEGINK: Thanks--good to be back.

8 My name is Lisa Stegink, and I am here today on
9 behalf of the Engine Manufacturers Association. Among the
10 EMA's members are manufacturers of pickup trucks, sport
11 utility vehicles, other light duty trucks and passenger cars,
12 and the diesel engines that are being designed to power them.
13 The EMA has submitted a copy of its oral statement for the
14 record, and has had the opportunity to present comments
15 previously in Philadelphia and Atlanta.

16 As we all recognize, this rule is one of great
17 significance. It will substantially reduce the emissions
18 from light duty vehicles and, depending on how the rule is
19 finalized, it can do so in a way that not only reduces HC,
20 CO, NOx and PM emissions, but also in a way that can reduce
21 carbon dioxide emissions, improve fuel economy, help
22 commercialize diesel technology that can achieve additional
23 reductions from other sources, and provide cleaner fuels to
24 improve the emissions from both new and existing vehicles.

25 As we have discussed with you, the single most
26 promising cost effective and available technology to reduce
27 CO2 and improve fuel economy is the diesel engine. This has
28 been confirmed by work coming out of the Partnership for a
29 New Generation Vehicle program, and has been recognized by
30 the Department of Energy and the Administration.

31 For example, according to EPA data comparing
32 similar sized gasoline and diesel engines, a diesel engine
33 exhibits a 60 percent improvement in fuel economy while
34 achieving a 30 percent reduction in CO2 emissions. Diesel
35 engines also are inherently low emitters of HC and CO, are
36 extremely durable with little or no degradation from initial
37 air quality emissions performance levels, and can perform
38 more work more efficiently than other types of engines.

39 These and many other positive attributes of diesel
40 engines can be realized if EPA reduces the sulfur content of
41 diesel fuel to no more than five parts per million, offers
42 greater flexibility in allowing manufacturers to average
43 their fleet-wide emissions levels, and provide modestly more
44 lead time to commercialize new clean diesel technologies.

45 Diesel engines that are being tested today and that
46 are on the cusp of commercialization will be quiet, free from
47 excessive vibration, and free from visible exhaust emissions,
48 and they will do so while retaining their fuel economy and
49 durability advantages.

50 The adoption of Tier 2 standards that allow a role

1 for vehicles with diesel fueled engines in the light duty
2 market has significant potential to stimulate support and
3 speed major research and development in clean diesel engine
4 technology. And those new technologies can be transferred to
5 other applications to provide even more extensive benefits.

6 Engine manufacturers already have made great
7 strides in reducing emissions from diesel fueled engines, and
8 we recognize that more can be done. The key, however, is to
9 assure that world class advanced technology engines are
10 paired with and supported by world class ultra clean fuels.

11 As EPA has recognized, the stringent emissions
12 standards in today's proposal require a systems approach to
13 compliance in which technology and fuels are integrally
14 linked. For light duty vehicles a diesel fuel with an ultra
15 low sulfur level at five ppm or less is essential. It would
16 provide direct PM emission reductions, it would enable
17 substantial NOx emission reductions, and it would provide
18 fleet wide benefits for both new and existing vehicles with
19 diesel fueled engines.

20 Ultra low sulfur diesel fuel also is required to
21 maintain engine durability. Without it, severe engine wear
22 and poisoning of the entire system can occur. And with the
23 need to reduce carbon dioxide emissions from the
24 transportation sector and the need to improve fuel economy,
25 the increased use of diesel fueled engines using ultra low
26 sulfur fuel would decrease carbon dioxide emissions.

27 Finally, improved diesel fuel also has a role in
28 responding to potential health effects concerns. Ultra low
29 sulfur fuel lowers the total mass of particulate from the
30 entire fleet and enables the use of known after treatment
31 technologies such as oxidation catalysts which can reduce the
32 organic fraction of PM emissions and, as discussed above, can
33 enable technologies to reduce NOx which in turn will reduce
34 secondary PM.

35 The proposed Tier 2 rule puts the commercial
36 viability of diesel fueled engine technology at risk,
37 resulting in the potential loss of the many benefits that
38 diesel fueled engine technology can provide. With moderate
39 and appropriate modifications to EPA's proposal, however, EPA
40 can assure that it does not miss the opportunity to have low
41 NOx emitting, high performing, low CO2 producing diesel
42 fueled engines available in the market.

43 To that end we urge EPA to incorporate an
44 independent midterm review of the proposed standards in the
45 final rule. Diesel fueled engine technology can remain a
46 viable option without adverse emission impacts, and with
47 ultra low sulfur fuel, widespread NOx and PM emission
48 reductions can be achieved.

49 EMA will provide more detailed comments and
50 recommendations in our written comments to the agency.

1 Thank you.

2 MS. OGE: Thank you. Mr. Brian Woodruff? Good
3 afternoon.

4 MR. WOODRUFF: My name is Brian Woodruff. I'm senior
5 environmental planner with the City of Fort Collins. Fort
6 Collins mayor Raymond Martinez asked me to make the following
7 statement on his behalf.

8 I bring you greetings from the council and citizens
9 of Fort Collins, a city of over 100,000 on the front range of
10 Colorado. We are pleased to provide these comments on the
11 vehicle emission standards and fuel standards proposed in the
12 Federal Register on May 13, 1999.

13 The Fort Collins city council supports the proposed
14 Tier 2 gasoline sulfur and diesel sulfur proposal. Our
15 citizens want clean air and they want to see continued the
16 track record of improvement in vehicle emissions that has
17 resulted from federal new vehicle standards in the past.

18 Air pollution is a high priority for Fort Collins
19 residents, as evidenced by surveys. The added per vehicle
20 cost of \$200 to \$300 for both new technology and cleaner
21 fuels over the life of the vehicles is reasonable, given this
22 high level of concern, especially since such cost estimates
23 have proven high in the past.

24 The city's air quality goal is to prevent air
25 pollution emissions from rising in the future. We know that
26 there are only two basic methods to reduce vehicle emissions,
27 first by reducing vehicle miles of travel, for VMT, and
28 second by reducing the average tailpipe emissions per mile
29 from vehicles.

30 The city pursues both methods in order to prevent
31 future emission increases. Our VMT goal is to prevent VMT
32 from growing faster than the population growth rate. For the
33 long term we are implementing new comprehensive land use and
34 transportation plans. These plans were designed to reduce
35 residents' dependence on vehicles and to make alternative
36 modes of travel attractive.

37 For the short term we are encouraging residents to
38 shift their travel from single occupant vehicles to
39 alternative modes. These programs are controversial however,
40 despite our residents' strong desires for clean air, because
41 they do affect our lifestyles.

42 Recent VMT data are discouraging. The VMT growth
43 rate exceeded the population growth rate 87 percent over a
44 three-year period recently. Of course we will continue our
45 efforts to bring the VMT growth rate down, but our goal to
46 prevent emissions from increasing in the future appears to be
47 slipping away, despite our best efforts at the local level.

48 On the tailpipe side of the equation, the city
49 reduces tailpipe emissions in the usual ways, by improving
50 traffic flow, improving the effectiveness of inspection and

1 maintenance programs, and increasing the number of
2 alternative fuel vehicles.

3 However we know that historically the federal new
4 vehicle emission standards have been far more effective than
5 anything we can accomplish at the local level. Stricter
6 standards for new vehicles will be needed if the city is to
7 meet it's air quality goals locally.

8 We see the benefits of this proposal primarily in
9 the area of ozone and visibility. Fort Collins ozone levels
10 have remained steady since 1986. This is a cause for
11 concern, however, because tailpipe emissions were improving
12 over that period due to new car standards. Without the
13 continued improvement brought about by the stricter standards
14 in the proposals before us today, VMT growth will likely
15 cause ozone levels to rise in the future.

16 Visibility impairment is a major concern for Fort
17 Collins and front range residents. Fort Collins' visibility
18 violates the Colorado established standard about one day in
19 three. The north front range air quality study completed in
20 1998 implicates vehicle emissions as a significant source of
21 PM 2.5, which is in turn a major cause of visibility
22 reduction on the front range. The proposed standards will
23 therefore help achieve state and local visibility goals.

24 We are disappointed that the proposal does not
25 tighten carbon monoxide standards. Fort Collins last
26 violated the CO standard in 1991 and will soon prepare a CO
27 maintenance plan. Communities like Fort Collins, which have
28 rapid population and VMT growth, will face a losing battle to
29 prevent CO emissions from rising to unacceptable levels
30 unless there is continuing improvement at the tailpipe.

31 For that reason U.S. EPA should revise the
32 standards so that sport utility vehicles, minivans and pickup
33 trucks must meet the same CO standards as passenger cars.

34 Thank you for the opportunity to comment on behalf
35 of Fort Collins citizens and their city council, signed
36 Sincerely, Raymond Martinez, Mayor.

37 MS. OGE: Thank you. Mr. Tom Byers. Good afternoon.

38 MR. BYERS: Good afternoon. My name is Tom Byers. I'm
39 senior government representative with Williams Energy
40 Services, an operating unit of the Williams Companies.

41 Although Williams is involved in nearly every phase
42 of the energy industry, our interest in these regulations
43 stems from our ownership of two refineries, one in Memphis,
44 Tennessee, and the other in North Pole, Alaska.

45 I appreciate the opportunity to present our views
46 on the impact of EPA's proposed gasoline sulfur standards on
47 Williams operations. Rather than duplicate what others have
48 already said, I would like to focus on the specific
49 difficulties these proposed regulations present for our
50 operations.

1 EPA based the requirements in the proposed rule on
2 a belief that new innovative desulfurization technology will
3 become available, even though it is has not been commercially
4 proven thus far. We certainly hope EPA is right.

5 New technologies such as sulfur absorption and bio-
6 desulfurization, which are not based upon hydro-treating, are
7 currently being developed in the industry. These
8 technologies may eventually prove to be much more cost
9 effective, particularly for small gasoline producers.
10 However, additional time is needed to develop these processes
11 to the point where they can be utilized to attain the EPA's
12 aggressive sulfur levels.

13 Under the EPA's current timetable for compliance
14 beginning in 2004, Williams is faced with few realistic
15 options. Although conventional hydro-desulfurization
16 technology does exist it is prohibitively expensive for a
17 small gasoline producer, and has not been proven to be
18 operable and reliable in a harsh arctic environment such as
19 North Pole, Alaska.

20 On the other hand, if we place our bets on one of
21 the new technologies that eventually proves to be
22 ineffective, the deadline will be upon us and the only option
23 at that point will be to quit making gasoline. Given that we
24 produce 38 percent of the 16,000 barrels a day of gasoline
25 consumed in Alaska, and given the unique geographic nature of
26 the state, this would be disruptive to the point of being
27 disastrous.

28 It is difficult to understand why refiners in such
29 unique areas should be subject to the same timetable as large
30 refiners in huge metropolitan areas. Also, in order to be
31 consistent with recently published intentions of Canada and
32 the European Union to start the implementation of similar
33 gasoline sulfur regulations in 2005, it would be prudent to
34 delay the EPA requirement until at least 2005 at the very
35 earliest.

36 A delay would provide industry with additional time
37 to develop the new and innovative technology that is in the
38 testing stage. In addition, it will bring the United States
39 program onstream at the same time that the rest of the major
40 industrial nations implement their programs, thereby avoiding
41 the nonalignment of similar programs.

42 The compliance schedule in the rule needs to allow
43 for the possibility that new technology may not perform as
44 hoped, and that compliance may need to be delayed to adapt
45 alternatives. The proposed rule contains two methods by
46 which compliance can be delayed, and these are worth
47 considering.

48 The EPA proposal incorporates the Small Business
49 Administration's definition of small business, that is no
50 more than 1,500 employees, to determine which facilities

1 should be subject to the less stringent standards for small
2 refiners.

3 However, the EPA is including in that number all
4 employees "throughout the corporation, including any
5 subsidiaries," and not just those in the refining segment of
6 the company. Although there are approximately 22,000 persons
7 in the Williams organization, there are only about 500
8 persons total in our two refining groups.

9 Even if the parent organization is large, the
10 refining operations must compete for capital with other
11 groups, so that in reality there is little distinction
12 between the ability to comply of a small independent refinery
13 and a small refinery within a large organization.

14 We believe the small refiner exclusion should be
15 based on the amount of gasoline produced by a refinery. For
16 example, Williams North Pole refinery has a total production
17 capacity of about 60,000 barrels per day, but only 10
18 percent, or 6,000 barrels per day of that production slate is
19 gasoline.

20 When viewed from a cost per gallon standpoint, we
21 must as a company question whether spending millions to
22 achieve a drastically lower sulfur content in such a short
23 period of time and for such a small quantity of gasoline is a
24 justifiable capital investment.

25 Providing relief to small refiners based on
26 gasoline production capacity rather than the number of
27 employees, or even crude processing capacity, would allow
28 some extra time for small producers to research and employ
29 more cost effective technologies than the conventional hydro-
30 desulfurization.

31 Another alternative would be to restructure this
32 delayed compliance option so that it applies to companies
33 willing to try new commercially unproven sulfur reduction
34 technology. This would encourage companies to adopt
35 innovative less costly solutions to the problem without the
36 fear of running into the deadline such the new technology not
37 prove workable.

38 Under EPA's proposed banking and trading scheme,
39 credits could be generated during the period 2000 to 2003 by
40 any refinery that produces gasoline with an average sulfur
41 content of 150 parts per million or less. These credits
42 could within limits allow other refiners up to two additional
43 years to fully comply with the rule.

44 In theory we might be able to take advantage of the
45 trading program, but the reality is much more doubtful, given
46 the time and expenditure which will be required to retrofit
47 refineries to enable the production of lower sulfur fuel,
48 four years is an inadequate amount of time to generate
49 significant credits.

50 Also, even if the EPA issues a final rule on this

1 docket by the end of 1999, the result will probably face a
2 legal challenge. In light of the recent court of appeals
3 decisions concerning the national ambient air quality
4 standards for ozone and particulate matter, and the stay
5 placed on the NOx sit-call (phonetic), and the relationship
6 between Tier 2 low sulfur gasoline and those standards, what
7 company can justify spending large sums of capital to comply
8 early if the regulation is being litigated?

9 Assuming for the sake of discussion that Williams
10 North Pole refinery is not afforded relief as a small
11 refiner, we would likely opt for the benefits that could be
12 realized from a simplified working, realistic banking and
13 trading program.

14 In fact the two Williams refineries provide a good
15 example of how such a program could be beneficial. Given an
16 adequate amount of time our much larger Memphis refinery may
17 be in a position to generate early compliance credits which
18 could provide the needed relief for our Alaska facility.

19 In summary, if this rule does move forward we want
20 to develop and install innovative technology, and we want to
21 bring the Memphis refinery into compliance as early as
22 reasonably possible. We cannot however do that under the
23 schedule that has been proposed.

24 We believe it is important to point out at this
25 time that at the same time we are attempting to address these
26 lower gasoline sulfur standards, we are also reviewing the
27 advance notice of proposed rule making concerning a lower
28 sulfur content for diesel fuel. Sulfur reductions in diesel
29 would require an additional multi-million dollar investment
30 by Williams.

31 In an earlier proposed rule concerning diesel fuel,
32 the EPA made the following statement describing the unique
33 characteristics of Alaska that demonstrate challenges that
34 exist for both diesel and gasoline fuel. "The basis for
35 today's proposed rule is that compliance with the motor
36 vehicle sulfur requirement in Alaska for areas served by the
37 Federal Aid Highway System is unreasonable because it would
38 create an economic burden for refiners, distributors and
39 consumers of diesel fuel. This economic burden is created by
40 unique meteorological conditions in Alaska and a set of
41 unique distillate product demand in the state."

42 Although this statement was made in the context of
43 diesel fuel regulations, it supports the earlier statements
44 that Alaska is a unique isolated and very small market that
45 should be considered separately from the continental United
46 States when regulations are proposed.

47 Alaska currently is exempt from the highway diesel
48 sulfur regulations in the Clean Air Act, and we understand
49 that that exemption is about to be extended. We ask that if
50 the rule on diesel sulfur moves forward, the timing of the

1 highway diesel sulfur exemption should be synchronized with
2 the implementation of any new diesel sulfur requirements.

3 Again, we thank the EPA for the opportunity to
4 voice Williams concerns, and we hope that you will take these
5 comments into consideration in developing the final sulfur
6 gasoline rule.

7 Thank you.

8 MS. OGE: Thank you. Mr. Pete Maysmith, good afternoon.

9 MR. MAYSMITH: Good afternoon. My name is Pete
10 Maysmith, and I live here in Denver. Thank you for the
11 opportunity to testify today regarding the proposed new clean
12 air standards.

13 It strikes me that we have an opportunity today to
14 take a tremendous step forward to protect our health and also
15 clean up our air. I grew up in Colorado, and as you all are
16 well aware, the Denver metro area has struggled for years to
17 improve its air quality. New tougher emission standards and
18 cleaner fuels will go a long way to improving our air here in
19 Denver, and it's consequently helping mitigate health impacts
20 of air pollution.

21 While I do not personally have asthma, several
22 goods friends of mine do. Myself and my friends are active
23 and participate in a variety of outdoor summer activities
24 including ultimate frisbee, biking, running, tennis, soccer
25 and the like. It is common for my asthmatic friends to
26 comment that on some days it is harder for them to be active
27 outdoors than on others because of the air quality and how it
28 impacts their breathing.

29 Even though I do not have asthma, I also worry
30 about spending too much time exercising outside on these high
31 pollution days. This makes no sense. We're the most
32 advanced nation in the world, and yet only too frequently
33 residents of Denver and other cities either can't or are
34 hesitant to be active out of doors because our air is so
35 dirty.

36 I urge you to responsibly and aggressively address
37 this problem. We have cleaner cars today than two decades
38 ago, but automobile air pollution is on the rise. Well, as
39 we are fond of pointing out here in the west, we love our
40 freedom, our freedom to drive and our freedom to choose to
41 drive huge polluting vehicles.

42 I believe it is essential that we implement
43 automobile pollution control technology that keeps pace with
44 the trends towards more driving and larger vehicles. I
45 support EPA's Tier 2 and gasoline sulfur proposal because it
46 is a strong program that will lead to dramatically cleaner
47 cars.

48 Specifically I agree with EPA that the new cars
49 should pollute 90 less than today's cars, that a nation wide
50 clean gasoline standard is necessary to ensure that vehicle

1 pollution controls remain effective over the lifetime of the
2 car, and that the surge in sport utility vehicles should be
3 included in this program.

4 However, I urge the EPA to strengthen its standards
5 in the following important ways. One, do not allow an
6 extended timeline for the biggest dirtiest SUVs to come into
7 compliance.

8 In its current form the proposal will not require
9 the clean-up of the largest and mostly polluting sport
10 utility vehicles currently on the market, and gives some SUVs
11 until the year 2009 before the standards apply.

12 This loophole creates a permission center for
13 automobile manufacturers to aggressively make and market ever
14 larger and more polluting SUVs. All cars and all SUVs should
15 meet the same pollution standards at the same time under the
16 new standards.

17 Number two, no special treatment should be given to
18 diesel vehicles. Automobile makers are moving towards diesel
19 engines for their largest passenger vehicles. EPA's proposal
20 leaves the door open for higher polluting diesel trucks to be
21 sold indefinitely.

22 Number three, clean gasoline should be available
23 earlier. EPA's proposal--under the EPA's proposal high
24 sulfur gasoline would be on the market in significant
25 quantities as late as 2006. Instead clean gasoline should be
26 in place in 2004 when the clean cars begin to come off the
27 assembly lines.

28 Again, thank you very much for the opportunity to
29 speak. I very much applaud EPA for proposing the stringent
30 standards for cars, and I urge the adoption of this program
31 with the noted strengthening amendments.

32 Thank you very much.

33 MS. OGE: Thank you. Mr. John Crnko. Good afternoon.

34 MR. CRNKO: Good afternoon. Got some overheads, so
35 it'll take just a second.

36 The U.S. EPA is correct, see comment ASTM 5453,
37 which is a sulfur by ultraviolet fluorescent measurement
38 technique to be designated as the primary sulfur test method.
39 Reasons include the laws that resulted after a group of
40 refiners, the Western States Petroleum Association, or WSPA,
41 petitioned the California Air Resources Board for more
42 capable, flexible and economical sulfur test methods.

43 Various laboratory studies in cooperative multi-
44 laboratory tests revealed that D5453 was such a sulfur test
45 method. These are the California laws that resulted. Data
46 taken from separate and independently run ASTM cross-check
47 programs has reinforced the California law.

48 This graph illustrates that D5453 is capable of
49 very good accuracy, and between lab reproducibility for
50 levels less than 30 parts per million. And it's

1 particularly capable of accurate and precise results when
2 sulfur levels are below 50 parts per million.

3 Data from the same samples, from the same ASTM
4 cross-check program demonstrated that 2622 reproducibility is
5 clearly less than that derived from the 5453 technology. In
6 fact it stated in its own test method, SCO, the D2622 can
7 have much difficulty analyzing for sulfur at levels at less
8 than 15 parts per million. D2622 does have a proven record
9 for determination of higher level sulfur concentrations.

10 D5453 also has the (inaudible) range to provide
11 equivalent sulfur results in higher concentration fuels.
12 Here collection of all fuels analyzed by both D5453 and 2622
13 for sulfur levels less than 500 parts per million from the
14 ASTM laboratory cross-check program has shown.

15 This data includes analysis for reformulated
16 gasolines, conventional gasolines, diesel and jet fuels, and
17 it came from data generated between June of '96 and December
18 of 1998. This data confirms and reinforces the conclusions
19 of the WSPA and California EPA regarding the equivalency of
20 2622 and 5453 for higher sulfur concentration samples.

21 D5453 has no interferences for the products covered
22 in this Tier 2 proposal because the halogen contaminations
23 are stringently controlled in the modern mode of fuels.
24 D5453 uses a sample combustion technology that is very
25 selective and free from the hydrogen carbon ratio
26 interferences that affect the proposed primary sulfur
27 regulatory method 2622.

28 Instrument calibration is straightforward and not
29 biased by the matrix of the calibration material. D5453 has
30 a proven history of performance in the measurement of sulfur
31 at very low levels.

32 Additionally, U.S. EPA correctly requests comment
33 concerning technology cost. Many laboratories and refineries
34 already employ the use of 5453 analyzers. 5453 technology is
35 very economical alternative to 2622. That's because it costs
36 less at initial purchase, is easier to maintain, and actually
37 has a much lower operational cost.

38 Information from laboratories that have operated
39 both test methods allow the following cost comparison.
40 Initial cost: instrumentation costs vary depending upon the
41 capability options selected by the end user.

42 For laboratories that operate 5453 and 2622
43 instruments with similar bare bones functions, such as single
44 element detection capability, manual sample introduction, the
45 initial purchase and installation costs of 2622 capable
46 equipment is roughly three times that of the 5453 capable
47 equipment.

48 Space requirements: bench space and work
49 environment is a costly consideration for any laboratory.
50 Many of the laboratories that will be responsible for

1 determination of sulfur in downstream control and
2 verification activities are not large. Although new 2622
3 equipment has gotten smaller, it's space requirements are
4 still at least three times that required by 5453.
5 Operation and maintenance cost: laboratory feedback
6 indicates that because of their complexity maintenance
7 contracts are almost required for 2622 instruments. D5453
8 technology is much easier to maintain, with a majority of
9 labs choosing self-maintenance.

10 When considering annual consumables such as sample
11 handling paraphernalia, electronic mechanical parts and
12 electrical power, 2622 costs can be three times that of 5453,
13 even when the maintenance agreement, which is not required
14 for 5453, is included.

15 Permits, personnel exposure: many states require
16 permitting and monitoring of personnel for radiation
17 exposure. This can add to the 2622 operating costs.

18 Significant initial economic savings can be
19 realized if the EPA allows the use of 5453. That's because
20 many of the companies that will have to produce and measure
21 the new Tier 2 fuels already own and operate 5453 equipment
22 for some type of routine analysis. 5453 can come on line as
23 a primary sulfur test method and many companies will have
24 little or no cost.

25 For sulfur fuels, D5453 is the technology of
26 choice. It has the analytical range, cost savings,
27 availability and the flexibility in application that the oil
28 industry will need on its journey towards Tier 2 (inaudible)
29 fuel production.

30 In conclusion, D5453 provides superior sulfur test
31 results at lower sulfur levels in equivalent measurements of
32 high sulfur concentrations. Allowing the use of 5453 could
33 enable significant capital savings for the fuel producing
34 communities, while giving them a better measurement tool as
35 sulfur concentrations continue to drop.

36 5453 test method has already been approved by other
37 regulating agencies and has proven its worth time and time
38 again in daily low sulfur fuel production, as well as in
39 general use on a world wide basis. D5453 is a global
40 technology that should be designated as the primary U.S. EPA
41 sulfur test method. D2622 and possibly other ASTM test
42 methodologies should be designated as the alternate test
43 methods.

44 Thank you.

45 MS. OGE: Thank you. Like to thank all of you for
46 coming here to testify. Especially I would like to thank Mr.
47 Pete Maysmith being here as a citizen of Denver. Thank you
48 very much.

49 I would call now the next panel. Please come
50 forward Ms. Janice Pryor, Mr. Ron Williams, Mr. Tom Plant,

1 Ms. Lynn Westfall, Mr. Nick Johnson, and Mr. Mike Astin.
2 Ms. Janine Pryor, we'll start with you. Good
3 afternoon.

4 PRYOR: Good afternoon.

5 OGE: We need more pens. You hear that? Okay. Next,
6 more pens.

7 Please go ahead.

8 PRYOR: My name is Janine Pryor. I'm the Public Policy
9 Manager for the American Lung Association of Colorado. And
10 I'm also their Air Quality Staff Specialist.

11 I want to thank the Environmental Protection Agency
12 for their valiant efforts to help clean up the air and to
13 make the recommendations they are making.

14 Both the American Lung Association of Colorado and
15 the National American Lung Association strongly support many
16 aspects of your proposals. Our only major recommendation is
17 that they be implemented sooner rather than later. We would
18 hope that if at all possible by the year 2004 for your SUV
19 N-30 PPM recommendations. And we certainly encourage you to
20 keep the recommendations as they are at this time, and
21 strongly support them with the exception that I mentioned.

22 I would like to place a human face on this issue,
23 and I regret that Sammy Martin, a 4th grader from Montclair
24 Academy, couldn't be here. He was who the Lung Association
25 wanted to have testify. But he was a little shy, so he wrote
26 some remarks. And I'd like to share them with you.

27 "When I was two years old I was diagnosed with
28 reactive airway disease, which later was called asthma. When
29 I have an asthma attack, the airways in my lungs react to
30 something and it is hard for me to breathe the air in and out
31 of my lungs."

32 He goes on to mention several things, including
33 exhaust that causes his asthma.

34 "When I can't breathe, my chest feels tight and it
35 is scary for me. Sometimes I have to go to the emergency
36 room at Children's Hospital. My mom goes with me. Sometimes
37 I wonder if I will go home again."

38 Like Sammy, there are 67,000 children in Colorado
39 with asthma. There are over 300,000 Coloradans with chronic
40 lung disease. It is very difficult for them to breathe on
41 some of our poor air days. That's why the Lung Association
42 of Colorado is extremely grateful for the proposals you're
43 making. We try to change behavior. We try to do a lot,
44 though the things that we try to do can make a difference.
45 What you're talking about will make a significant difference,
46 an impact on the lives of people with lung disease, as well
47 as healthy folk, so we thank you for this opportunity.

48 Thank you.

49 OGE: Thank you. Ms. Sally Allen. Good afternoon.

50 ALLEN: Good afternoon. My name is Sally Allen. I'm a

1 Vice President of Gary-Williams Energy Corporation, a Denver
2 based oil and gas company. I should point out that we are
3 unrelated to the Williams companies who testified in the
4 previous panel.

5 Our primary asset is a 50,000 barrel per day
6 refinery in Wynnewood, Oklahoma. Company-wide, we have about
7 275 employees and fall within the definition of small refiner
8 used for these regulations. Ron Williams, company president,
9 testified at the Philadelphia hearing last week, and is sorry
10 that he cannot be here again today.

11 I will summarize the four main points of our
12 company's statement.

13 First, we want to emphasize our appreciation for
14 EPA's interest in and commitment to the small businesses that
15 will be most severely impacted by this rule making. We were
16 invited by the Small Business Administration to participate
17 in the Small Business Regulatory Enforcement Fairness Act
18 process. Panel representatives show great commitment by
19 coming to our Denver offices and the Frontier Refinery, in
20 Cheyenne, Wyoming. We submitted company information and
21 joined with eight other small refiners as part of a coalition
22 submitting joint comments.

23 In our view, the SBREFA process was thorough and
24 beneficial. Panel members were knowledgeable, understanding
25 and willing to propose new approaches in order to keep alive
26 small refiners like us who undoubtedly would have had to shut
27 down if hit with stringent requirements in a very tight time
28 frame. In our case, for example, because we distribute
29 product by a pipeline to the east, a strictly regional
30 approach would not have provided the necessary relief.

31 We are convinced that the SBA and EPA review of
32 small refiner concerns with regard to this rule making are
33 consistent with Congress' intent in preserving small business
34 in this county. The SBREFA panel proved to be a constructive
35 mechanism for small business to work out mutually appropriate
36 solutions with federal regulators.

37 Our second point, however, is that two sections of
38 the proposed small refiner standards still cause us concern.
39 The sulfur levels imposed for the year 2004 appear somewhat
40 arbitrary. We are still reviewing options and examining cost
41 impacts of meeting the relevant standard. Even if we can
42 meet the reduced levels required by changing our crude slate,
43 we now estimate that the negative economic impact would
44 substantially offset our historic level of profits.

45 We may, however, be forced to install the same new
46 equipment to meet the levels set for the year 2004 that we
47 will ultimately need for the 30 ppm standard. If that turns
48 out to be the case, we would effectively lose the small
49 refiner advantage and would be competing for funding and for
50 engineering and construction expertise in order to install

1 expensive current technology.

2 Therefore, we request some flexibility in the
3 proposed regulatory structure for the year 2004. In our
4 written comments, we hope to propose some mechanisms to
5 facilitate such flexibility. At a minimum, we believe that
6 small companies should have the ability to appeal to EPA for
7 a higher sulfur level if costs outweigh the benefits of
8 hitting a specific target number.

9 Third, as the rule now stands, there is apparently
10 an opportunity for only one two-year hardship extension. We
11 are fully committed to comply with the national sulfur
12 standards. But our concern is that new technology may not be
13 commercially proven and available at reasonable cost by that
14 time.

15 Because the comment period of the gasoline sulfur
16 proposal will end before enough facts are known about the new
17 technologies, we request that EPA specify that the hardship
18 waiver can be renewed after the initial two-year period if
19 warranted by small refiners' facts and circumstances.

20 Finally, we are aware of EPA's intention to issue
21 new diesel sulfur regulations by year-end. If we are
22 required to meet more severe gasoline and diesel sulfur
23 standards in roughly the same time period, we will be forced
24 to shut down.

25 We respectfully request that EPA initiate a SBREFA
26 panel process for the small refiners who may be impacted by
27 the diesel regulation.

28 Thank you for the opportunity to address this
29 hearing. We would be happy to provide additional information
30 at any time.

31 OGE: Thank you. Mr. Tom Plant. Good afternoon.

32 PLANT: Thank you very much.

33 And thank you for allowing me to speak today to
34 recommended Tier 2 emission standards proposed by the EPA.

35 My name is Tom Plant, and I am a State
36 Representative for Colorado's 13th House District.

37 My district encompasses one of the highest growth
38 regions in the United States. The corridor between Boulder
39 and Denver currently accommodates approximately 65,000
40 average automobile trips per day. That number is expected to
41 increase to 127,000 average trips in the next 12 years.

42 Combining this rapid growth and expanding commuter
43 distances with the unique atmospheric challenges posed by the
44 geography of the Front Range, we stand at a cross-roads with
45 respect to Colorado's air quality. The Tier 2 standards go
46 far in addressing these challenges.

47 The new standards recognize changes in our driving
48 habits and realities of automobile use that did not exist
49 when the initial standards were enacted. SUVs and light
50 trucks, for example, are primarily used as commuter vehicles

1 today, in contrast to their status as work vehicles in the
2 past. Advances in technology have made moot the claims that
3 passenger emission standards cannot be met by SUVs, light
4 trucks and minivans.

5 Finally, our knowledge of the potential health
6 effects of increased emissions cannot in good conscience be
7 ignored. The Tier 2 determination that light duty trucks
8 should meet the same standards as passenger vehicles
9 recognizes realities of technological advances in current
10 usage trends. When emissions and fuel economy standards were
11 first adopted almost 30 years ago, LDTs constituted less than
12 20 percent of new car sales, and were used primarily for
13 hauling and work purposes. Today, the national figure is
14 close to 50 percent. And while I don't have the data for
15 Colorado, we can safely assume that the figure is
16 significantly higher here.

17 Technologically, we currently have the ability to
18 easily make these vehicles comply with proposed Tier 2
19 standards.

20 In California, engineers were able to modify the
21 Ford Expedition, a vehicle that's in the heaviest of the LDT
22 categories. And even utilizing the vehicle as a work truck
23 reduced the air pollution levels by 90 percent from current
24 standards simply by re-programming the air fuel system and
25 adding a more durable catalyst. The total estimated cost was
26 \$200. On a vehicle where the average profit margin for the
27 manufacturer is on the order of \$15,000, this is a minor
28 investment, and should reflect no increased burden on the
29 consumer.

30 The recent Concerned Scientists Study determined
31 that LDT loopholes have resulted in an additional 5,000 tons
32 per day of smog-forming pollutants in our air, equivalent to
33 the pollution of 40,000,000 cars, or five times the number of
34 cars sold last year.

35 If we continue to allow pollution exemptions for
36 LDTs, the gap between cars and LDTs will continue to broaden
37 as cars become cleaner under the National Low Emission
38 Vehicle Program.

39 There's no technological sticking point, nor
40 financial barrier to these improvements. It's clear from the
41 evidence, the light duty trucks represent the new passenger
42 cars of choice and should no longer qualify for a special
43 pollution exemption.

44 The sulfur levels in gasoline severely limit the
45 performance of the catalyst on the advanced technology
46 vehicles. Increased emission of hydro-carbons, nitrogen-
47 oxides, carbon monoxide and fine particulates. It's
48 imperative that we mandate an increase in sulfur levels
49 nationwide as a matter of public health. And similar
50 standards are being enacted this year, as you know, in most

1 northeastern states.

2 Diesel emissions which were excluded from most of
3 the Tier 1 standards should be included in the requirements
4 of Tier 2. Diesel vehicles should meet the same emissions
5 requirements as gasoline vehicles. Nitrogen oxides and
6 diesel exhausts have been identified by the National
7 Institute for Occupational Safety and Health, and The Agency
8 for Research on Cancer as a carcinogen.

9 Furthermore the soot particles present in diesel
10 exhaust, the ultra fine particles penetrate deeper into the
11 lungs than the larger particulates and are known to cause
12 serious respiratory damage.

13 Finally, with respect to diesels there is a move to
14 replace the current low efficiency gasoline vehicles with
15 diesel to meet the corporate average fuel economy standards
16 or the CAFE standards. The high fuel economy ratings belie
17 the other highly damaging emissions from these engines. This
18 is a dangerous trend. Technology exists for diesels to
19 simultaneously improve fuel economy and achieve lower
20 emissions.

21 Public opinion is clearly behind the Tier 2
22 standards. In a 1998 Lake, Snell, Perry and Associates Poll,
23 it showed that 91 percent of the public agreed that LDTs
24 should meet the same emission standards as other passenger
25 vehicles. Even 87 percent of SUV owners and 92 percent of
26 the minivan owners agreed. 88 percent of those polled said
27 diesel and gasoline engine should meet the same standards.
28 91 percent would pay up to three cents per gallon more for
29 low sulfur gasoline and nearly 70 percent would pay five
30 cents more.

31 I encourage the EPA to continue to pursue these
32 updated standards, and I appreciate the opportunity for
33 public comment and hope we can work together to markedly
34 improve the air quality on the Front Range of Colorado and
35 for the United States.

36 OGE: Okay. Mr. Lynn Westfall, good afternoon.

37 WESTFALL: Good afternoon.

38 My name is Lynn Westfall and I'm the Director of
39 Development for the Ultramar Diamond Shamrock Corporation, or
40 UDS for short. UDS is one of the largest independent
41 refiner/marketers in North America with seven refineries,
42 totalling almost 700,000 barrels a day of crude capacity, one
43 of which is here in Denver, Colorado, and approximately 6,000
44 branded retail outlets.

45 UDS has always believed that active, constructive
46 involvement in regulatory process produces a result that
47 benefits all parties. So we certainly appreciate the
48 opportunity to be here today to comment on the EPA gasoline
49 sulfur reduction proposal.

50 In the past we have been actively supportive of

1 numerous regulatory efforts. From our Wilmington, California
2 refinery, we were the first company to commercially produce
3 the ultra-clean California CARB Phase 2 gasoline. We spent
4 over \$300,000,000 at that facility to convert 100 percent of
5 its gasoline production to this vitally important, cleaner
6 burning fuel because California has a unique air quality
7 problem that requires a unique solution.

8 We are voluntarily supplying the San Antonio market
9 right now with low RVP gasoline, 7.8 psi versus the required
10 9 psi specification. In a market where we supply 50 percent
11 of the gasoline, we feel compelled to provide a regional
12 solution to continue compliance in the largest metropolitan
13 area in the United States currently in compliance with clean
14 air standards.

15 Using this same philosophy, we are supplying the
16 Denver market voluntarily today with low RVP gasoline to do
17 our part for cleaner air in this area.

18 We have supported past regulatory efforts because
19 they have been, number one, based on sound science; and
20 number two, designed to provide localized solutions to
21 localized problems. We now found, however, that we cannot
22 support the current sulfur reduction proposal because it
23 fails both of these tests.

24 First, we find no compelling scientific evidence to
25 support a sulfur level as low as 30 ppm anywhere in the U. S.
26 with the possible exception of California. Even the current
27 EPA proposal allows 80 ppm cap on sulfur content, therefore
28 recognizing that a consumer in any area of the country may
29 actually fill their tanks at this higher level at any given
30 time.

31 Furthermore, by averaging sulfur content among
32 refineries, a large Gulf Coast refinery could generate enough
33 leeway for a smaller inland refinery to produce 80 ppm sulfur
34 gasoline for long periods of time. In essence then, EPA
35 itself already recognizes 80 ppm as an acceptable level for
36 long term sulfur content, so what then justifies the 30 ppm
37 level?

38 Secondly, we cannot support the current sulfur
39 reduction proposal because the nationwide sulfur standard is
40 most certainly not a localized solution to a localized
41 problem. For the first time EPA is forcing all areas of the
42 country to comply with a standard designed for an area with
43 the worst problem. Had this philosophy been used in the
44 past, all areas would now require reformulated gasoline,
45 whether or not they were in compliance with clean air
46 standards.

47 In the real world, how can industry or government
48 allocate limited resources to areas requiring the most
49 attention when all areas are treated the same?

50 Furthermore, data presented by both API and NPRA

1 confirmed that regional differences can be accommodated
2 through automobile catalyst recovery when traveling from an
3 area of price over content to an area of lower sulfur
4 requirements. This failure to recognize localized needs is
5 especially harmful here in PADD IV, the Rocky Mountains,
6 where we are today.

7 PADD IV is least in need of cleaner air
8 regulations. It is the only region in the country without a
9 single RFG mandated or RFT opt in area. Furthermore, it is a
10 region where the refining industry can least afford to make
11 these unnecessary investments. The average size of a
12 refinery in the Rocky Mountains is only 40,000 barrels a day,
13 and the largest is only 60,000 barrels. This compares to an
14 average size of 170,000 barrels a day on the Gulf Coast where
15 the largest refineries are almost 500,000 barrels per day in
16 crude capacity.

17 What this means is that refiners in the Rocky
18 Mountain area must spread their investments over a low-cost
19 basis, therefore raising their per-barrel investment cost.

20 We currently estimate that the compliance cost for
21 our UDS Denver refinery will be about one and a half times
22 greater than the per barrel cost of our Gulf Coast refinery.
23 When smaller refineries are disadvantaged on a per barrel
24 basis versus large refineries, the economic trend favors
25 supplying from larger refineries via new pipeline capacity
26 and the eventual shutdown of smaller, regional refineries.

27 Therefore, failure to account for regional
28 differences in air quality affects more than just air
29 quality. It affects regional pocketbooks and regional jobs
30 Even within the PADD IV area itself the current proposal
31 significantly disadvantages one class of refiners, large
32 companies that own small refiners.

33 The current proposal provides an exemption for
34 small refining companies covering 17 refiners in the U. S.,
35 whereby they may delay their investment decision for up to
36 six years versus a company such as UDS. Five of these
37 refineries are in PADD IV, and they represent a combined 31
38 percent of the number of refineries, and 17 percent of the
39 crude capacity. In other areas exempt refineries represent
40 no more than two to four percent of the regional crude
41 capacity.

42 In the Rocky Mountains, therefore, almost one-fifth
43 of our competition will be significantly advantaged over the
44 UDS position at our Denver refinery. Not only could these
45 advantaged refineries have up to six years of lower operating
46 costs, but they could have a perpetual cost advantage by
47 being able to wait for improvements in sulfur reduction
48 technology.

49 UDS, therefore, has been placed in the worst
50 possible position with this proposal when it comes to our

1 Denver refinery, because it's a small refinery in the Rocky
2 Mountain area, owned by a large company. This then is what
3 UDS feels is wrong with the current proposal. So what do we
4 think would make it right?

5 First, we would like to see regional specific
6 sulfur standards based on regional specific air quality
7 issues. While we agree that no regional sulfur level should
8 be so high as to permanently damage automotive catalytic
9 converters, we find no compelling scientific evidence that
10 this necessary upper limit is 30 ppm. We continue to support
11 the positions taken by APA and NPRA on the allowable levels
12 for sulfur in gasoline. At the very least, a further study
13 of regional issues and maximum sulfur content appears
14 justified.

15 Second, we would like a level playing field whereby
16 all refineries must meet the same standard at the same time,
17 or exemptions are granted based on the size of the refinery,
18 not the size of the company. If exemptions are allowed, we
19 would expect them to be granted only to facilities that have
20 a plan to invest to obtain the lower sulfur requirements, and
21 would also expect a follow-up program to insure that these
22 facilities are meeting their investment milestones over time.

23 Using an example of California, small refinery
24 exemptions there require the filing of a compliance plan with
25 both construction and financial milestones which are
26 monitored and updated annually. Failure to meet any
27 milestone would have resulted in immediate cancellation of
28 the exemption. Granting exemptions without these
29 requirements could allow these refineries to reap a windfall
30 over a long period of time with no intention of investing for
31 lower sulfur, and then close their refinery the day before
32 compliance becomes mandatory for them. By then the damage
33 could have already been done to disadvantaged refiners like
34 UDS, who found they could not compete on a cost basis, and
35 were forced to permanently close their facility. Surely this
36 cannot be the intention of any exemption program. But may
37 well be the unintended result if changes are not made to the
38 current sulfur reduction proposal.

39 Thank you for the opportunity to speak to you
40 today.

41 OGE: Thank you. Mr. Nick Johnson.

42 JOHNSON: Thank you.

43 OGE: Good afternoon.

44 JOHNSON: Good afternoon. My name is Nick Johnson, and
45 I am the clean air advocate for the Colorado Public Interest
46 Group or COPIRG. COPIRG is a Colorado based consumer
47 environmental watchdog organization active across the state.
48 And I'm here today testifying on behalf of COPIRG and our
49 40,000, plus, statewide citizen and student members. I
50 greatly appreciate the opportunity to speak to you today on

1 this important and timely issue, and would especially
2 acknowledge Mary Manors. I thought that was a cover E-mail
3 name. It's good to see a real person. Hi Mary.
4 It's summer time here in Colorado, and that means
5 ozone season is upon us. To gear up for high ozone levels,
6 the Colorado Department of Health and Environment has joined
7 forces with the Regional Air Quality Commission to put a
8 system in place that helps warn people when it's unsafe to go
9 outside. Why would such a system be necessary in Colorado?
10 Well, because contrary to what some have said earlier today,
11 Denver and other western cities do indeed have air pollution
12 problems. And if this summer is anything like 1999, we can
13 expect frequent violations of the federal health standard for
14 smog. And not just here in Denver, but throughout the Front
15 Range and some mountain communities as well.
16 Last year, the standards were exceeded in Colorado
17 on eight separate summer days. What this means for people
18 living in these areas is that they could experience declining
19 lung function as a result of breathing the air in their
20 communities.
21 For a state like Colorado, this fact is ironic at
22 best and tragic at worst. Coloradans love hiking, jogging
23 and running, and anything it seems that involves being in the
24 outdoors. Yet because of unhealthy smog levels, normal
25 healthy adults might have to curtail outside activity to
26 protect their health. And for children, the elderly, and
27 asthmatics, high smog days could mean missing important
28 things, such as work and school, and perhaps even visits to
29 the hospital, to the emergency room.
30 Therefore, new standards requiring clean cars and
31 clean gasoline are not just a good idea, they are absolutely
32 essential to protecting public health.
33 According to the Regional Air Quality Control
34 Council, automobiles are the single largest source of smog
35 forming pollution in the Denver metro area creating nearly 40
36 percent of the nitrogen oxides that cause smog formation.
37 While today's cars are cleaner than those of two decades ago,
38 Coloradans drive considerably more miles per year than ever
39 before.
40 Just to put this in perspective, in 1970, Denver
41 citizens drove about 20 million vehicle miles per year. By
42 1990 that figure had jumped to 38 million, and now the Denver
43 Regional Council of Governments predicts that by the year
44 2020, Denver area citizens will drive about 74 million
45 vehicle miles a year, and that is a rate that's growing at
46 twice the rate of population.
47 In addition, Coloradans are driving bigger and more
48 polluting vehicles than ever before with nearly half of all
49 cars sold at least nationwide being construed as part of the
50 light trucks or SUV division, which are allowed to pollute up

1 to three times more than other passenger cars.

2 So together, the proposed Tier 2 standards and
3 gasoline sulfur standards comprise a strong integrated
4 approach to reducing pollution from automobiles.

5 And a concern for time because Angie Farley of the
6 United States Public Interest Group did go before me, I'd
7 just like to quickly reiterate some of the aspects of the
8 program which we very much applaud.

9 So very quickly, first we applaud the overall
10 significant reduction in pollution from the average
11 automobile that would be realized through Tier 2 programs.
12 With the rate at which population vehicle mile travels are
13 growing in Colorado, cleaner cars will be immensely
14 beneficial to Colorado's health, the quality of air.

15 Second, we agree with EPA that popular sports
16 utility vehicles must be treated no differently for pollution
17 purposes than cars. By having SUVs, minivans and pick-up
18 trucks meet the same tailpipe standards as other passenger
19 cars, Colorado alone could avoid 25,000 tons of nitrogen
20 oxide pollution each year.

21 And third, we agree that a nationwide sulfur
22 standard should be adopted to prevent the poisoning
23 sophisticated new pollution control equipment.

24 We believe that EPA's proposed gasoline sulfur
25 standard allows too much time to pass before significant air
26 pollution benefits can be expected. In 2001 auto makers will
27 begin nationwide marketing of low emission vehicles under the
28 national low emission vehicle program. The effectiveness of
29 the emission control technology used in these vehicles will
30 be compromised by the sulfur that will remain at high levels
31 until 2004 through 2006 under EPA's proposal.

32 A strong first step, EPA's Tier 2 proposal should
33 be strengthened before it becomes final later this year. I
34 will highlight two important changes that should be made to
35 avoid complication delay in the continuation of undesirable
36 loopholes in automobile pollution regulations.

37 First, EPA proposed allowing SUVs weighing between
38 6,000 and 8500 pounds an extra two years before the Tier 2
39 standards apply. EPA's proposal gives these models until
40 2009, a full decade from now, before their exemption from
41 clean car standards expires. We believe that special
42 standards for larger SUVs should expire immediately.

43 And second, EPA's proposal does not address
44 pollution from the largest and dirtiest SUVs overall. Those
45 in the weight class of over 8500 pounds.

46 We believe the Tier 2 standards should apply the
47 same .07 nitrogen oxide average to all classes of passenger
48 vehicles, including those over 8500 pounds.

49 And finally, I would again like to thank the EPA
50 for allowing me this opportunity to comment on proposed Tier

1 2 and gasoline sulfur standards.

2 I do have with me in the other room signed post
3 cards from over 2700 citizens from across the southwest, not
4 only from Denver, but other states such as New Mexico and
5 Arizona. And would like to present you with those post
6 cards. I'm not sure to who or where, at the end of this.

7 OGE: Ted will take care of them.

8 JOHNSON: At the end of this testimony. So again thank
9 you very much. I look forward to submitting written
10 comments.

11 OGE: Thank you. Mr. Mike Astin, good afternoon.

12 ASTIN: Thank you, good afternoon.

13 My name is Mike Astin. I'm the Senior
14 Environmental Health and Safety Manager for Inland Refining.
15 Inland Refining operates a small refinery in Woods Cross,
16 Utah. I've submitted my comments, and I'm not sure whether
17 you have copies of them or not, but what I'd like to do is
18 draw an analogy and kind of emphasize what I have in those
19 comments.

20 I think most of us probably--I'm not going too far
21 out on a limb if I say most of us own a car. If we could
22 imagine for a minute that all of us own a car, and it's a
23 pretty good car. It's an older car. It is well-maintained,
24 it runs well. Every year we take it in for the emissions
25 check, it passes easily. But because it's an older car, it--
26 the insurance on it is pretty inexpensive. And it's paid
27 for. So it's good to have.

28 Our neighbor also owns a car. It's also an older
29 car. But it smokes every time he pulls away, and we can't
30 for the life of us understand why on earth that thing can
31 pass the emissions test every year.

32 Well, while our cars are parked out on the street
33 one day, one evening a drunk driver comes down the street at
34 a high rate of speed out of control and strikes those cars
35 and totals them both. The insurance company tells us not to
36 worry, it was not our fault, and therefore, we will receive
37 the entire market value of our car in compensation.
38 Unfortunately, because it's an older car, we get \$730.00.
39 Now we're faced with the proposition of having to replace our
40 reliable clean car for \$730.00. And we can't do that very
41 well.

42 The insurance company also has a provision that
43 recognizes that, and some people may lose their good car,
44 their good transportation and not be able to replace it. And
45 they have additional compensation available for those
46 instances with a few provisions, and one of the provisions is
47 that your car must have failed the emissions test for the
48 past two years, and have required substantial maintenance in
49 order to get it to pass that emissions test. Well, our car
50 did fine on the emissions test, so we're not available for

1 that additional funding from the insurance company. So
2 again, we're stuck.

3 Our neighbor, however, with his smokey car manages
4 to get enough from the insurance company that he can go out
5 and buy a one-year-old used Pontiac Grand Am, and he's
6 looking pretty good right now.

7 We're looking at alternative transportation modes,
8 and where the bus routes run, and realizing that they don't
9 run close to where we work. We may have to leave a couple
10 hours early in the morning just to get to work, or lose our
11 job.

12 Now, let me tell you how that applies to Inland
13 Refining.

14 PRESIDENT: Thank you very much. I'm getting tired of
15 that one.

16 UNIDENTIFIED SPEAKER: This is a fascinating--

17 OGE: Supposed to be quiet.

18 ASTIN: Inland Refining for the last several years we
19 have operated using feed stocks that are low-sulfur crude.
20 Using that low-sulfur crude we can produce a gasoline that
21 not only meets the proposed requirements of the standards,
22 but also does a little bit better than that. However, our
23 feed stocks have varied in the past, and at times in the past
24 we have used high-sulfur crudes.

25 We have no guarantee in the future what we're going
26 to be able to use for those feed stocks, so if this proposed
27 regulation goes through as written, we're going to have to be
28 able to put in some type of equipment to cover that
29 contingency if we have to move to higher sulfur crudes.

30 Now, the EPA has allowed us some flexibility in
31 there. First of all, it's going to cost us a substantial
32 amount to put in that equipment, to remove that sulfur from
33 those higher sulfur crudes, so we have to handle them. Our
34 last significant expenditure was for a piece of process--or a
35 process unit that removes sulfur from diesel fuel so that we
36 can produce a cleaner diesel fuel. We haven't paid for that
37 one yet. It's highly unlikely that we're going to get
38 additional funding from our bankers in order to be able to
39 handle additional equipment to remove sulfur for gasoline
40 production also.

41 For those contingencies there's a couple things
42 that we have in the proposed rule that cut us some slack.
43 One is for small refiners. As I mentioned, we are a small
44 refinery. However, we're not eligible for that because we've
45 produced gasoline at less than 30 pints per million for the
46 last two years. So according to that rule we still have to
47 meet the same deadlines as if we were a large refinery.

48 It also allows us--allows for sulfur credit, sulfur
49 allowances if we meet those requirements early. Again, we're
50 not eligible for that because we had low sulfur for the last

1 couple of years.

2 If the sulfur rules goes through as proposed, it is
3 highly likely that we will be out of business and our
4 refinery will close, which seems kind of funny since we're
5 one of the refineries that has been producing the low sulfur
6 gasoline. So we don't have really too much of an option
7 here. We're not subject to the allowances in the extended
8 time, even if we can get the funding in that time period to
9 add that equipment. I hope that our situation is also taken
10 into consideration when you finalize the rule.

11 I appreciate the opportunity to speak. Thank you
12 very much.

13 OGE: Thank you. I really apologize about the music
14 next door. Have no idea what's going on, but we tried to
15 keep it under control. But thank you for your testimony.
16 Thank you for coming forward today. And we hope that his
17 letter goes to the docket. Thank you very much.

18 We're doing good with time so we will move forward
19 to our 2:45 group of panelists, and I would like to call Ms.
20 Nina Dougherty. Mr. Bill Robb, Mr. Bill Nasser, Ms. Deborah
21 Kielian, Mr. Greg Casini, and Mr. Bob Neufeld. And also I
22 would like to call Ms. Bonnie Rader, if she's still--she--
23 please come forward. There's an extra chair.

24 We start with Ms. Nina Dougherty. Good afternoon.

25 DOUGHERTY: Good afternoon, and thank you for this
26 opportunity.

27 I am Nina Dougherty. I am chair of the Utah
28 Chapter of the Sierra Club. I live in Salt Lake City. I am
29 also on the Sierra Club's National Air Quality Committee.

30 I wanted to say that I will focus on several
31 issues, in particular on the need for a national strong
32 standard for sulfur in gasoline, low sulfur in gasoline.
33 However, I also want to mention that I certainly support the
34 comments, the more comprehensive ones made by the Sierra Club
35 and the Clean Air Network at the other hearings, and in
36 writing.

37 In particular, on the--a red flag goes up for me
38 when I hear that we don't need a strong national gasoline
39 sulfur standard. And therefore can't have or fully enjoy the
40 benefits of new cleaner cars in the west, because supposedly
41 we don't need to worry about air pollution. As all lonely
42 cars are on lonely roads in Wyoming and the population is
43 rather sparse here and there.

44 As one of the 1.6 million residents of the rapidly
45 expanding and polluted Wasatch front of Utah, I cannot let
46 this myth of how most of the people live in the West go
47 unchallenged. Most of the population of the west lives in
48 very rapidly-growing, sprawling auto, increasingly SUV,
49 dependent urbanized areas, either on the brink of exceeding
50 air quality health standards or actually exceeding the

1 standards. An increasing number live in burgeoning auto SUV
2 dependent tourist areas near the national parks.

3 Equally I would certainly commend EPA for proposing
4 a strong national gasoline sulfur standard and for adhering
5 to the Small Business Administration definition of a small
6 refinery. Please stay firmly committed to these aspects of
7 the proposed standards.

8 I am, however, concerned about the various
9 flexibilities allowed small refineries. The delays, the
10 market trading scheme, and leniency for various factors,
11 especially if, hopefully not, the definition of small
12 refinery were to be drastically weakened to refer to the
13 number of employees at a small facility of a large company.

14 I think we need to look at the Wasatch front as an
15 implementation case study. All 15 of the refineries in the
16 Rocky Mountain area, PADD IV, are small refinery facilities,
17 even though many are part of a much larger company. Five of
18 these small refineries, one-third of them in PADD IV, are
19 located right along the Wasatch front in our ozone
20 maintenance area. We were not only on attainment, we're
21 barely maintained at this point in time. And these are
22 located within the populated area, right up against the
23 mountains, basically.

24 These refineries, plus one in Wyoming, supply most
25 of the gasoline used along the Wasatch front. If these
26 refineries were each allowed to delay producing low sulfur
27 gasoline because they are defined as small, or they obtain
28 credits from their parent companies, the current 1.6 million
29 people along the Wasatch front would be confined to higher
30 sulfur gasoline, and would continue to not get the full
31 benefit of emission controls on their vehicles, or to be able
32 to use much cleaner, new generation cars, as well as to
33 continue to be subjected to the emissions from the refineries
34 until perhaps we're rescued by market forces, such as a
35 pipeline bringing gasoline from Texas refineries that's been
36 proposed, or perhaps EPM is going to rescue us. We don't
37 know that. We don't know that. We feel like we are sort of
38 trapped in the thieftom, that we're being held hostage by a
39 monopoly denying us access to the fuel that we need.

40 So the many tourists--we also have many tourists
41 coming through Salt Lake and through Utah, often obtaining
42 cars or driving their own car from California. And they too
43 would have problems with poisoning, since supposedly we would
44 have to continue to be this rather unique case where we are
45 confined to using higher sulfur gasoline.

46 A case by case look at individual small refineries
47 could miss the bigger picture of a large urban polluted area
48 that's rapidly expanding, getting almost all of its gasoline
49 from small refining facilities that have been allowed to
50 delay the soft rise in gasoline.

1 Focusing on how to help small refineries survive
2 rather than on how to help the population reduce emissions
3 from mobile sources might also ignore and interfere with
4 market forces, such as I mentioned the pipeline coming in,
5 perhaps the refinery failing, for other reasons than the
6 sulfur reduction issue. A firm national standard with
7 cautious judicious flexibility is called for.

8 Should we be concerned about air pollution along
9 the Wasatch front? I've heard that supposedly there are no
10 areas west of the Mississippi that were going to possibly be
11 a commodity for the new standards. I find that very
12 difficult to believe. Last summer we had exceedences of the
13 eight-hour ozone standard on 21 days. We exceeded the one-
14 hour standard at four monitors on two separate days last
15 summer.

16 The Director of the Division of Air Quality sent a
17 memo to the Air Quality Board stating during the summer of
18 1998, our VOC emissions were near the bottom of the
19 projection curve, and we still exceeded the ozone standard.
20 She also said, in emphasizing the need to reduce ozone
21 precursors, we have been violating the ozone standard or just
22 barely meeting it for years all along the Wasatch front.

23 Although we have had several clean years with regard to
24 fine particulates, we have a history of persistent winter
25 inversions with very high levels, very dangerous levels of PM
26 2.5. Including nitrates formed from rocks, from mobile
27 sources. The 1.6 million population of today is expected to
28 expand to 2.7 million by 2020. And to 5,000,000 by 2050.
29 Vehicle miles traveled are expected to continue to grow at a
30 faster rate than the population. Do people along the Wasatch
31 front want cleaner cars and low sulfur gasoline? Yes.
32 People care about air quality. It's the number one issue
33 with regard to our current Envision Utah process.

34 The Wasatch Front Regional Council, which is the
35 MPO, the Metropolitan Planning Organization, through much of
36 the Wasatch front, is relying on cars getting cleaner all the
37 time. In their recent communique, they have recently stated
38 that. And they show a curve. It just goes down, down, down,
39 and talk about the Tier 2 standards forthcoming.

40 One of their major strategies to determine
41 conformity of their transportation plans with the air quality
42 plans was to use the M-LEV module with Mobile 5-A. They have
43 acknowledged that low sulfur gasoline is needed to get the
44 most benefit from LEVs.

45 The Salt Lake City Tribune, the main paper in town,
46 published an editorial in February supporting a strong
47 nation-wide reduction of sulfur in gasoline, as well as much
48 better controls for SUVs.

49 I'll just mention the SUV issue as well, and also
50 the visibility. Utah, apparently Colorado, and probably the

1 other western states, went over the 50 percent mark in sales
2 of SUVs versus cars before the national average hit that mark
3 last year. It's been more than last year. We've had
4 additional years. They are being used as commuting vehicles
5 from sprawled out suburbs as well as for some rugged road
6 driving. They must represent well over 50 percent of the
7 vehicles in tourist towns and the national parks. There
8 should not be an exemption for the heaviest SUVs nor delay in
9 achieving the tighter standard of the mid-way SUVs. The
10 health of urbanites and as well as visibility in class I
11 areas is at stake.

12 And again I'd like to emphasize that visibility
13 protection is important, that clean air does include clear
14 air in the Class I areas, not just air that meets the max in
15 the more urban area.

16 We have haze which we are required to clean up, and
17 we want to clean up. Cleaner cars and SUVs with the
18 necessary lower sulfur fuel, whether operating in large
19 numbers in somewhat distant urban areas, or in or near Class
20 I areas are important for protecting visibility.

21 Thank you very much.

22 OGE: Thank you. Mr. Bill Robb. Good afternoon.

23 ROBB: Good afternoon. My name is Bill Robb and I'm
24 Group Vice President for the Base Oil and Specialty Division
25 of Pennzoil-Quaker State Company. I appreciate the
26 opportunity to testify before this hearing.

27 Pennzoil-Quaker State has serious concerns about
28 the potential impacts of this regulatory proposal, especially
29 on small niche refineries such as ourselves.

30 As an environmentally responsible company,
31 Pennzoil-Quaker States supports the efforts to improve air
32 quality, and appreciates the difficulty in balancing the
33 various interests on this issue. However, we urge that
34 careful consideration be given to the potential consequences
35 that these new rules will have on small refiners. We believe
36 therefore, that implementation of the rule should distinguish
37 among facilities based on capacity size, and the fact that
38 gasoline may not always be a primary product of these
39 refineries.

40 Pennzoil-Quaker State has many comments and
41 concerns about this proposed rule-making and will submit
42 written comments for the docket. Today, because of time
43 limitations, I will focus on the single most important issue
44 to Pennzoil-Quaker State, the viability of small niche
45 refineries.

46 At the outset, we appreciate the EPA raising a
47 number of issues in the preamble for comment regarding the
48 criteria for small refiners, and for those primarily engaged
49 in the production of lubricants. Pennzoil-Quaker State is
50 unique among refiners because of its heavy emphasis on the

1 production of premium lubricants. In order to make these
2 premium lubricants, waxy crude oils are refined to maximize
3 the quantity of lube oils, kerosene solvent, waxes and other
4 specialty products while producing smaller quantities of
5 gasoline than the typical refining process.

6 The EPA should consider special situations such as
7 small niche refineries for which gasoline is not the primary
8 product, as similar to small refiners. The Pennzoil-Quaker
9 State refinery in Shreveport, Louisiana is a good example of
10 a small niche refinery. This refinery has a crude throughput
11 capacity of approximately 46,000 barrels per day and is
12 operated as a lubricant base oil and wax specialty plant.

13 Most typical refineries maximize the production of
14 light transportation fuel such as gasoline from every barrel
15 of crude oil processed. To do this, a fuels refinery cracks
16 gas oils and other heavy materials to lighter transportation
17 products. The Shreveport refinery on the other hand,
18 primarily uses a lube vacuum distillation unit to tailor-make
19 it's gas oils for base oil and wax manufacture. The gas oils
20 are purified into base oils for blending into premium motor
21 oils, other finished lubricants and specialty products.

22 Gasoline is also produced as a by-product during the
23 distillation of the crude oil. As a result, there is a
24 relatively low ratio of gasoline to base oils and specialty
25 products produced at Shreveport when compared with typical
26 industry refinery. The capital dollars required to comply
27 with the low sulfur gasoline proposal will therefore be
28 spread over a much smaller gasoline volume at Shreveport,
29 without benefitting our primary products. Nonetheless, the
30 capital must be spent to continue to operate this refinery.

31 The proposed rule asks whether additional criteria
32 should be used to define "small refiner" beyond the
33 definition used in the SBREFA process. We believe that, in
34 addition to this criteria which gives special considerations
35 to refiners with 1500 employees or less, capacity should also
36 be used for determining what is a small refiner. This
37 proposal, using the SBREFA criteria limits the small refiner
38 extension to 17 refineries across the U. S., of which all but
39 eight are said to be nearly in compliance with the proposed
40 rule. The proposal provides these 17 refineries with an
41 interim standard for four years. We believe that this
42 proposal does not provide adequate relief to these
43 facilities, nor does it correctly identify all small refiners
44 and refineries that require relief.

45 To address this issue, we propose the EPA use the
46 approach to identify small refiners which has been used
47 historically by both EPA and Congress in such programs as
48 gasoline lead phase-down, acid rain credits, and the small
49 refiner diesel initiative. This approach would be based on a
50 double capacity cap that would include both the capacity size

1 of an individual refinery, as well as the total capacity of
2 all refineries owned by a given company. It would provide
3 relief for refiners that have 50,000 barrels per day maximum
4 crude throughput for an individual refinery. It also has a
5 limit of 137,000 barrels per day crude throughput for a total
6 refining capacity by an individual company, thus identifying
7 only truly small refiners. This proposal would increase the
8 number of small refineries to 22 from 17. This increase
9 represents less than one percent of the total daily
10 production capacity in the U. S.

11 We strongly support the proposed additional four
12 years for these refineries, refiners, to implement the new
13 stringent standard. However, we do not believe that the
14 proposed interim sulfur concentration standard is appropriate
15 as part of this relief.

16 The proposed interim standards for small refiners
17 will not provide the intended relief at small refineries
18 unless the refinery already meets the proposed standards.

19 Any required meaningful change in sulfur content of
20 gasoline produced at a refinery will required interim capital
21 expenditures, changes in operating or blending processes or
22 other income-reducing options. Each of these reduces the
23 ability of the small refiner to focus its capital resources
24 on the ultimate implementation of the low sulfur gasoline
25 requirements.

26 If a refinery is required to install equipment to
27 comply with a temporary standard, these capital dollars may
28 be wasted when the new emerging technologies are available to
29 comply with the final standards. Changes in operating or
30 blending procedures can also substantially change the
31 refinery product mix and reduce the overall refinery
32 economics. Each of these options will materially impact the
33 economic viability of a small refinery during the interim
34 period, particularly since there will be little opportunity
35 to recover the costs of these changes in the marketplace.

36 Furthermore, based on any small refiner definition, an
37 interim standard or lack thereof will have very little impact
38 on the nationwide gasoline pool, since small refiners produce
39 less than four percent of the gasoline in the U. S., and
40 generally serve small portions of attainment areas.

41 Pennzoil-Quaker State believes that refineries not
42 producing gasoline as a major product and meeting certain
43 other limitations should be eligible for small refiner
44 status. The one-size-fits-all approach to gasoline sulfur
45 levels advocated by some industry representatives, as well as
46 some regulators, places an unfair and anti-competitive burden
47 on both small refiners and those that make gasoline as a by-
48 product, such as lubricant refiners. These small refiners
49 will be left with precious few options, since they lack both
50 capital resources and necessary economies of scale.

1 Without allowing longer lead time for compliance or
2 less stringent standards, the smaller niche refiners will be
3 forced to make relatively large capital outlays, on the order
4 of \$10-\$50 million dollars, that may never be recouped. The
5 economic viability of these operations will be jeopardized,
6 and will most certainly impact the competitiveness of the
7 U. S. marketplace should any of these refineries be forced to
8 cease operations.

9 Appreciate the opportunity to make these comments,
10 and as I mentioned, we'll submit additional comments to the
11 docket.

12 OGE: Thank you. Mr. Phil DiGrazia. Good afternoon.

13 DiGRAZIA: Good afternoon. Thank you.

14 I'd like to start off by apologizing for Mr. Nassar
15 who wasn't able to make it today. He asked me to testify on
16 his behalf. And thank you for allowing me to testify today.
17 I have a brief oral statement and ask that my written
18 statement be included in the record.

19 My name is Phil DiGrazia and I'm a chemical
20 engineer with Energy Bio-Systems Corporation, from The
21 Woodlands, Texas. Energy Bio-Systems is a bio-technology
22 company whose aim is to address major environmental and
23 industrial issues through recent advances in micro-biology,
24 genetic engineering and bio-engineering.

25 Most people are aware of the significant advances
26 in genetics and bio-engineering in the pharmaceutical
27 industry, and in agriculture. Our company, on the other
28 hand, has positioned itself to be a leader in the third wave
29 of the bio-tech revolution into the chemical and energy
30 industries.

31 I'm not here today to validate, support or
32 criticize the proposed EPA regulations of lowering sulfur
33 standards in gasoline and diesel fuel. I am here to make you
34 aware of new alternatives being developed by our company for
35 achieving sulfur reductions in fuel that should impact the
36 economics of producing low sulfur fuels.

37 The current technology, hydrodesulfurization, or
38 HDS, that is now used to reduce the sulfur content in fuels
39 unfortunately has many disadvantages.

40 First, it's old technology, having been in
41 existence for over 40 years.

42 Second, it's enormously energy intensive because it
43 requires high pressure and temperatures.

44 Third, because of its large appetite for energy, it
45 results in large greenhouse gas emissions.

46 And finally, it's enormously costly to install, and
47 very costly to operate.

48 Because of this, I can understand the reluctance of
49 the refining industry where margins are thin to invest the
50 billions of dollars to install such old technology with so

1 many adverse implications. In fact, for smaller refiners, as
2 we've heard from many today, the prohibitive cost of
3 installing and operating this technology may well force them
4 to close.

5 I would also like to point out that the EPA's goal
6 of decreasing sulfur in fuels will result in a direct and
7 adverse impact on the administration's goal of reducing
8 greenhouse gas emissions.

9 We at EBC have developed a new process, which also
10 promises to lower sulfur in gasoline and diesel. But at half
11 the cost and without the huge increase in emissions inherent
12 in the current technology.

13 Our process is called bio-desulfurization, or BDS.
14 Basically, we've identified a micro-organism that occurs
15 naturally in the soil, and can be modified to selectively eat
16 sulfur out of gasoline and diesel fuel. The organism can
17 also be enhanced to eat sulfur out of coal and crude oil,
18 something that the current HDS technology cannot achieve.

19 There are several benefits of our BDS technology.
20 On a Department of Energy fact sheet issued in January of
21 this year states that, and I quote, "Bio-desulfurization will
22 yield lower sulfur gasoline at lower production costs", end
23 quote. In fact, our studies show that the capital cost for
24 the BDS technology will be about half of the current
25 technology, and that the operating costs of our technology
26 will be some 20 percent lower.

27 In addition to the cost savings, BDS will result in
28 up to 80 percent less greenhouse gas emissions, and a similar
29 80 percent reduction in energy consumption, compared to the
30 current technology. This is because our process operates at
31 essentially room temperature and pressure compared to the HDS
32 that requires extreme to both temperatures and pressure.

33 Another benefit that our process yields is
34 beneficial in commercially viable by-products. We can alter
35 the enzymes that we use to produce surfactants from the
36 sulfur, which currently sell for about 50 cents per pound and
37 are used in a wide variety of detergents and cleaners.

38 Another by-product application that may result is
39 in resins, polymer and other useful products.

40 In comparison, HDS produces either large amounts of
41 elemental sulfur, or sulfuric acid, neither of which is
42 highly valued commercially, thereby presenting an added
43 problem to refiners.

44 The final benefit of our technology is the
45 flexibility. It can be inserted at various stages of the
46 refining process. In addition, it can be used in conjunction
47 with existing HDS technology. For example, large refiners
48 with HDS operations that are presently in use can tap into
49 our technology to compliment their current operations to
50 reach ultra low sulfur levels.

1 Our pilot products already have demonstrated the
2 ability of our technology to reach sulfur levels of 75 parts
3 per million, or less. And we believe that we can achieve 30
4 parts per million and commercial viability within the next
5 three years, contingent upon the level of investment we
6 receive. In fact, we're confident that we can also reach a
7 sulfur level near zero using BDS.

8 While our technology is extremely promising, there
9 remain hurdles. The primary hurdle being investment in
10 research and development. With oil prices low, refining
11 margins practically non-existent, and small capitalization
12 stocks battered, we face an enormous difficulty in raising
13 capital to complete our technology. To date we've spent some
14 \$68 million dollars on our technology, about \$65 million of
15 which came from the private sector.

16 In conclusion, this proposal will require enormous
17 investment. I don't think there's any question about that.
18 Because of the short amount of time, however, to reach the
19 rule's targets, I'm concerned that the rule will lock
20 industry into old technology that will be expensive, waste
21 energy and result in vast increases in greenhouse emissions.
22 We believe that the rule in the federal government should
23 help to fully develop alternative technology such as bio-
24 desulfurization. Not only will refiners be the
25 beneficiaries, but so will the environment and fuel
26 consumers.

27 Again, thank you for allowing me to testify, and
28 I'd be happy to answer any questions the panel may have.

29 OGE: Thank you. Ms. Deborah Kielian. Good afternoon.

30 KIELIAN: Good afternoon. Can you hear me okay?

31 My name is Deborah Kielian, and I'm the Program
32 Manager of Mobile Sources for the Department of Environmental
33 Health for the City and County of Denver. I'm here this
34 afternoon to provide testimony on the recently proposed Tier
35 2 motor vehicle emission standards and program to reduce
36 sulfur in gasoline, and on the agency's advanced notice of
37 proposed rule-making on diesel fuel.

38 First, I would like to offer my commendation to EPA
39 for developing such a cost effective and efficient proposal
40 that addresses both fuels and tailpipe emissions. As one of
41 several local agencies charged with the responsibility for
42 achieving and maintaining healthy air in the Denver area, we
43 understand significant achievements that will be made in
44 cutting emissions from light duty vehicles, light duty
45 trucks, and reducing sulfur in gasoline.

46 Denver has been creative in its efforts to attain
47 carbon monoxide ozone and particulate matter standards, and
48 we appreciate the impact these new regulations will have on
49 decreasing emissions from our rapidly increasing population,
50 and resultant increases in BMT.

1 For the proposed Tier 2 motor vehicle emission
2 standards, we support the cost effective emission reductions,
3 applying the standards to LDDs and light duty trucks,
4 including SUVs, requiring the same emission standards for
5 heavier vehicles as well as for cars and light trucks. And
6 particularly for establishing fuel neutral standard.

7 There are, however, a few areas that we would like
8 to see modified. As a representative of Denver, we would
9 like to recommend that larger SUVs, vans and trucks, from
10 6,000 to 8500 pounds GBWR have until 2007 to comply rather
11 than till 2007. Because of the increasing demand for these
12 larger vehicles in the Denver area, and the subsequent impact
13 their emissions will have on our air quality, we are
14 concerned about the extra time allotted for these vehicles to
15 comply. We see no reason to put the monetary and emission
16 burden on smaller vehicles only. We suggest both smaller
17 vehicles and the heavier SUVs, vans and trucks should play by
18 the same rules.

19 Two, the participants in the averaging, banking and
20 trading program should be required to meet their targets by
21 the timetable provided. It may be inappropriate to provide
22 an additional year for manufacturers to make up for any
23 credit shortfall.

24 And three, we strongly encourage EPA to consider
25 applying the Tier 2 standards to those SUVs, pickup trucks
26 and full size vans that are used for personal transportation.

27 For the proposed gasoline sulfur control
28 requirements, we support EPA's efforts. We also support the
29 flexibility and incentives that have been included to
30 minimize the cost too, and compliance burden on affected
31 parties. We would suggest, however, that the gasoline sulfur
32 standard take effect in 2004.

33 Concerning the request for comments on the
34 reduction of sulfur in diesel fuel, Denver agrees that this
35 is a critical issue that must be addressed. We would like to
36 suggest that a national cap be adopted on sulfur in both on-
37 road and non-road diesel fuel.

38 To conclude, we are certain that if the federal
39 government hadn't made tough decisions concerning air quality
40 standards years ago, we would probably still be in non-
41 attainment for several pollutants today. We applaud the more
42 restrictive standards that over the years have improved the
43 quality of life in Denver. Again, we commend you for
44 continuing to promulgate these air quality advances, and urge
45 you to consider our recommendations.

46 Thank you for the opportunity to testify today.

47 OGE: Thank you. Mr. Bob Neufeld, good afternoon.

48 NEUFELD: I'm going to have real trouble with this. If
49 I might, I'm going to move this easel out just a touch
50 further so that I can be closer to this table where I have

1 some things to add to it. I'll try to turn it so that you
2 folks here at the table can see it, too.

3 My name is Bob Neufeld. I'm the Vice President,
4 Environmental and Governmental Relations for Wyoming Refining
5 Company. We are a small refiner by the definitions of the
6 rules. However, because we have done the analysis that Sally
7 Allen was talking about, we have determined that complying
8 with the interim standard is going to be as expensive as
9 going to 30 parts per million. We've decided that the
10 special relief for small refiners offers us nothing. We will
11 have to be at 30 parts per million and make that investment
12 by 2004, or go out of business.

13 I won't read my statement because I can't do it in
14 ten minutes, so I will just cover a few points.

15 First of all, I would like to state, and I won't go
16 into detail, that refiners, whether they are large or small,
17 do not have the ability to pass these costs on to their
18 customers in the same manner that field manufacturers do.
19 And that those that are unable to recover all their costs are
20 most likely to go out of business.

21 Second, I would like to talk just a little bit
22 about the math pro study and put that to rest once and for
23 all. Refineries will go out of business in PADD IV. And
24 let's see if I can draw a line here on the map. PADD IV is
25 essentially this area, which covers Idaho, Utah, Colorado,
26 Wyoming and Montana. Refineries will go out of business in
27 that area.

28 The PADD IV study is wrong in a number of respects,
29 and if you have a copy of that study I direct your attention
30 to Appendix B at the bottom of the first page of that
31 appendix.

32 First of all, in estimating the inputs of the
33 refineries in PADD IV, PADD IV assumed that imported fuel
34 oil, whether it comes in from the pacific coast, gulf coast
35 or the east coast over here, is going to cost every refinery
36 in PADD IV the same. They use the national average cost for
37 importing crude oil for all refineries in PADD IV.

38 Second, for domestic crude oil, they use the
39 average cost price of crude oil at the oil lease in PADD IV
40 as the domestic cost of crude oil for refineries in PADD IV.
41 That's wrong. First of all, the refineries don't pay an
42 average cost. They pay individual costs.

43 Second of all, not every refinery in PADD IV buys
44 its crude oil at leases in PADD IV. We buy a significant
45 amount of crude oil from the gulf coast, and so therefore, an
46 average in PADD IV is really meaningless as to cost of
47 domestic crude oil for PADD IV requirements.

48 Third, in determining how much it costs to get the
49 crude oil from either the lease or some other place to the
50 refinery, they use the national average cost of transpor-

1 tation for the refiners. Again, nothing specific to PADD IV.

2 In fact, the only piece of refinery specific
3 information in the math pro study is how much oil did each
4 refinery import from outside the country.

5 On the other side of the refinery gate, they use
6 product average prices to determine what refiners are getting
7 for their products for PADD IV. Nothing refinery specific.
8 PADD IV averages as to product prices. That's what we're all
9 supposed to be making.

10 And finally, they just guessed at what our costs
11 were between getting the crude oil and putting the product
12 out the gate. They had no idea. So they guessed at our
13 crude oil prices, crude oil costs, they guessed at our
14 product prices, and they guessed at the costs in between and
15 came up with some sort of average that says that we're
16 supposed to be able to afford gasoline desulfurization. I
17 don't think the results are very reliable, and frankly, I
18 would be embarrassed personally to rely on that study that
19 refineries will not close in PADD IV. As one of the area
20 directors of a region eight state said to me, "I hope the
21 auto makers didn't pay a lot of money for that study. It's
22 not very good." And that's the way I feel about it.

23 Now, this map represents the product distribution
24 system in PADD IV. These three pipelines carry product into
25 PADD IV from Eldorado, Texas--or Kansas, excuse. McKee,
26 Texas. They are full capacity. There's no way to get
27 additional product of any significant size into PADD IV.
28 This pipeline is an eight-inch pipeline that carries product
29 out of PADD IV, and I can't tell you much about it. It's
30 owned by Synex. And it--I don't know what the capacity is.
31 But by and large, if a refinery closes down anywhere along
32 this loop of product distribution pipeline, it's going to
33 affect prices everywhere in PADD IV.

34 In fact, history shows that when AMOCO Casper
35 closed its refinery in 1991, the prices at three PADD IV
36 cities rose above the prices down here in PADD III by about
37 ten cents a gallon over a period of 12 years. That repre-
38 sents to Rapid City, South Dakota customers alone, where I
39 have some product volume information, \$10,000,000 a year in
40 additional taxes to pay for low sulfur diesel that closed
41 down the AMOCO Casper refinery.

42 So what this proposal really represents is if
43 refineries close, the tax on consumers in this area to pay
44 for clean air benefits was probably not needed.

45 In fact, when I was growing up--I grew up in South
46 Dakota--I used to look at all the magazine ads, and they'd
47 say "Prices slightly higher west of the Mississippi." If
48 this rule goes into effect, those ads are going to come back
49 and they are going to say highest prices ever west of the
50 Mississippi.

1 Now, I have a proposal that I think represents some
2 thinking out of the lines, outside of the box. What I hope
3 it doesn't represent is thinking so far out of the box that
4 it's off the planet.

5 These states that I'm putting on the map, if
6 they'll stay up there, represent states that have expressed
7 an interest in regional standards. EPA's proposal to date
8 has been focusing on how do we avoid irreversibility in
9 catalytic converters. I'm going to suggest to them that you
10 don't. You try to manage it instead.

11 I went to a hearing on May 18th in Washington, D.C.
12 where Neddy Myers (phonetic), the Secretary of the South
13 Dakota Department of Environment and Natural Resources,
14 testified and suggested that we find a way of taking the
15 catalytic converters on cars from this part of the country
16 that come out to see Mount Rushmore and Grand Teton, and
17 everything else, and find a way of servicing those catalytic
18 converters, or replacing them, so that when the cars go back
19 home, they burn cleanly again and meet their full emission
20 performance standards.

21 At Neddy's request, I did a little back-of-the-
22 envelope study and I didn't use this region, I used the NPRA,
23 NPI western region, and came up with a result that indicates
24 that the percentage of cars that are poisoned by high-sulfur
25 fuel is used by EPA in this proposed rule, who in fact come
26 into the API, NPRA western region and go back home.

27 The cost per gallon of western gasoline is going to
28 be somewhere in the neighborhood of 1-1/2 to two cents a
29 gallon, considerably cheaper--considerably cheaper than what
30 we're talking about for gasoline desulfurization.

31 In addition, there is in the regulatory impact
32 analysis a statement by EPA that says, flat out says,
33 gasoline sulfur poisoning is reversible given the right
34 combination of temperature and variation of air fuel mixture.
35 Unfortunately, that's never going to happen on the cars when
36 you implement the supplemental federal test procedures. That
37 begs the question, why not take the catalytic converter off
38 the car, service it when the guy has an oil change--he comes
39 in and you say, "Been to Mount Rushmore lately, Mr. Tourist?"
40 Yes, no. If he has, take the catalytic converter off the
41 car, service it on some type of machine that can be developed
42 to provide that right combination of temperature and air fuel
43 mixture. Put it back on the car after the oil change is done
44 and send him on his way.

45 And I think it would be a lot cheaper for refiners
46 in this area--these are states that have expressed an
47 interest to pay for that than to put in gasoline
48 desulfurization technology.

49 Along that line I have a letter here--one minute?
50 Thank you. I'm doing very well, according to my plan.

1 Along that line I have a letter here dated June
2 15th from the Western Governor's Association. It's not a
3 motion by the entire association, but it is signed by ten of
4 their governors, and if you read between the lines, it
5 basically says, "We're very concerned about small refineries
6 in the west. Very, very concerned. We don't think enough
7 has been done to take care of their special concerns." And
8 they are directing the Western Regional Air Partnership to
9 come up with some solutions to this problem. And the last
10 sentence says, "These recommendations from the Western
11 Regional Air Partnership must be considered before EPA
12 develops a final standard."

13 And it's signed by Jim Geringer of Wyoming, Michael
14 Leavitt of Utah, Terry Knolls of Alaska, Bill Janko of South
15 Dakota, Dirk Kenthorn of Idaho, Ed Schafer of North Dakota,
16 Gary Johnson, New Mexico, Kenny Gwen, Nevada, Mike Johansen,
17 Nebraska, and John Kitzfaller of Oregon.

18 So even though they support national sulfur
19 standards, they do believe that EPA and the states and
20 refineries and the auto industry have some homework to do to
21 try and solve the problems, special problems that exist in
22 the west.

23 I give this to you. The second page is not very
24 legible, but as soon, I'm sure since it's addressed to Carol
25 Browner, you'll see a copy sooner or later. If not, I'll be
26 happy to forward a copy to you.

27 Thank you very much, and if you have any questions
28 to ask, I can answer them.

29 OGE: Thank you. Ms. Bonnie Rader. Good afternoon.

30 RADER: Thank you.

31 My name is Bonnie Rader. I'm an average citizen, a
32 resident and native of Colorado, and so are my children. And
33 we can remember a time when pickups and SUV type vehicles
34 were used for ranch and farm work, and you were considered a
35 red-neck if you drove one. So it's quite a difference today.

36 I'm here to present the perspective of a person who
37 is an average citizen that seems to always find themselves in
38 the environmental trenches, all the way from Superfund to
39 RCRA to federal facilities, and now clean air.

40 I want to commend the Environmental Protection
41 Agency for allowing an average citizen the opportunity to
42 participate in this process.

43 The proposed standards are vital to the well being
44 of the average citizen and our living environment. I am here
45 today to testify because I have some major concerns regarding
46 the final implementation and follow through of the Tier 2
47 standards.

48 First, I'll tell you why this opportunity for the
49 average citizen is so important. The average citizen does
50 not understand this process. Most individuals are busy

1 making a living and raising their families. Most citizens
2 cannot afford to take time away from work to participate in a
3 forum such as this one, even though the majority of the
4 citizens support cleaner air and less impact from traffic to
5 their living environment. They think the new rules will fix
6 everything.

7 However, the bottom line for industry is profits.
8 Industry hires full time employees to lobby their position to
9 the agency. These people have every day to knock on doors
10 and participate in meetings with the agency. Their goal is
11 to weaken the requirements of the laws and thereby allow
12 companies to sell more cars, more gasoline, and to build more
13 roads. These industry representatives are paid to represent
14 the company and its bottom line profits. Under this scenario
15 industry representatives will be allowed to work to weaken
16 the rules on the basis that the new standards will harm
17 business.

18 Any of you who are old enough and have been around
19 long enough to remember the late 70s when Superfund and RCRA
20 were being implemented will remember those days. I live by
21 the Lowry Landfill Superfund Site, also a RCRA site.

22 During the time that the citizens were fighting to
23 close the RCRA facility down, based upon the fact that we
24 already had chemicals in the Superfund site and didn't need
25 any more in our neighborhoods, Colorado industry met with EPA
26 and Colorado government officials in private meetings. They
27 told the citizens that they would be responsible for midnight
28 dumping. They also told the citizens and industry government
29 representatives that industry was going to go belly up if we
30 didn't have a RCRA facility.

31 As a result, the citizens held their ground. The
32 RCRA facility was shut down. Colorado industry did not go
33 belly up. Midnight dumping did not increase. In fact, a
34 survey done by the Colorado Department of Health showed that
35 midnight dumping went down. Not one company went belly up.

36 I have no doubt that industry is overwhelming the
37 industry with dire predictions and pleas for leniency on the
38 Tier 2 rules now. My question is why should there be?
39 Industry, states and municipalities have had years to prepare
40 for these rules. Rather than prepare and make a change for
41 the good that would protect the public good, they have spent
42 the time looking for loopholes in the law to continue on with
43 business as usual.

44 The Clean Air Act represents Congress' most
45 ambitious attempt to alter the goals and strategies of the
46 nation's transportation agencies. Under the Clean Air Act,
47 the Administrator of EPA establishes national ambient air
48 quality standards for ground level ozone, carbon monoxide,
49 and other pollutants to protect the public health and
50 welfare. The Clean Air Act attempts to address transpor-

1 tation planning with two main requirements pertaining to the
2 conformity of transportation agency activities, and the
3 incorporation of transportation control measures in SIPs.
4 Neither of these requirements has had the intended effect so
5 far.

6 Congress first included a conformity requirement in
7 the Clean Air Act in '77. During the following 13 years,
8 agencies essentially ignored the requirement. The current
9 version of the statutory conformity provision originated with
10 the Clean Air Act amendments of 1990. It represents a con-
11 certed attempt by Congress to reinvigorate the pre-existing
12 short, general, and ineffective provision of the Act. The
13 amendments were necessitated in part by 20 years of failed
14 efforts to control transportation sources of pollution. A
15 case brought by Citizens for a Better Environment brought
16 suit, and the court wrote that, quote, "The 1990 amendments
17 are designed to insure that the conformity requirement is
18 ignored no longer."

19 Specifically, one section of the Clean Air Act
20 lists various transportation control measures. Under pre-
21 1990 EPA guidelines, each of the TCMS listed in the act was
22 presumed reasonably available and could be left out of the
23 TIP only upon a showing that it would not advance attainment,
24 would cause substantial and long-term adverse impact, or
25 would take too long to implement.

26 More than six years after the enactment of the 1990
27 amendments the situation which the sponsors of the amendments
28 sought to remedy remains unchanged. The authors of a review
29 of post-1990 Clean Air Act implementation posts the question:
30 "To what extent is conformity substantively shaping
31 transportation investment programs and project selection?"

32 The response is, "Anecdotal evidence suggests that
33 only a few areas have had to alter their transportation
34 priorities to, quote, 'pass' the quantitative emissions tests
35 of conformity." In addition, states have not included many
36 TCMs in the SIP submissions they have made to EPA so far, and
37 it appears unlikely that this will change during the
38 remaining years of the Clean Air Act amendment implementation
39 process.

40 The single most important obstacle to change has
41 been transportation agencies who view that their mission is
42 simply to expedite traffic flow, and to the fullest extent
43 possible, to ensure the levels of traffic flow historically
44 deemed attainable and desirable. Clean Air Act implemen-
45 tation would be proceeding on a different course if
46 transportation agencies saw it as central to their mission to
47 provide safe, convenient, and congenial bicycling and walking
48 conditions, and to provide transportation alternatives to the
49 gridlock that regardless what the agencies do, more and more
50 motorists in urban and suburban areas will experience from

1 now on.

2 Transportation agencies that have defined mobility
3 in terms of traffic flow and have refused to change their
4 plans and spending programs to improve air quality are part
5 and parcel to the success that industry will experience in
6 weakening these standards. The American transportation
7 policy is preoccupied with the movement of motorists passing
8 through a neighborhood or town rather than with the interests
9 of the residents, pedestrians or bicycles.

10 Yet it is the local or regional community that
11 probably matters most to Americans, and the interest in
12 protecting communities is a national one. The "motoring
13 public" is a public in need of clean air with decent places
14 to live and congenial places to frequent close to home.

15 Industry and official acceptance of the new
16 approach to cleaning our air and protecting our neighborhoods
17 can help undo the alienation from government that has become
18 such a force in American life. Citizens who are dealing with
19 pollution problems are encouraged when their government
20 listens and works with them to find a solution.

21 I have included with this testimony a copy of a
22 letter from the City of Aurora that I will not read. It was
23 written in response to a request for traffic calming in our
24 neighborhood. It is a prime example of all that is wrong
25 with our system today. If traffic planners and engineers are
26 dedicated to this type of a decision, and this kind of a
27 decision-making procedure, the implementation of the Tier 2
28 standards in their strongest form is imperative. We need to
29 implement them now. The need for that protection and the
30 opportunity to provide it have never been greater.

31 Thank you for this opportunity.

32 OGE: Thank you. Mr. Bob Neufeld, please sit down.

33 (Whereupon, Ms. Oge's microphone malfunctioned and
34 her comments and questions cannot be heard.)

35 OGE: First of all, this question to Mr.-- (Whereupon,
36 Ms. Oge's microphone malfunctioned, and her comments cannot
37 be heard.) Thank you for your statement and your
38 recommendations. (Tape is garbled and comments cannot be
39 understood.)

40 DiGRAZIA: First of all, without releasing a great deal
41 of confidential--

42 OGE: I understand.

43 DiGRAZIA: --information in this, our refinery is
44 looking at a project that will make it more competitive. We
45 are probably one of the least competitive refineries in PADD
46 IV at this point. That project will increase our gasoline
47 production, which means that to the extent that we produced
48 volume over our average volume of '97 and '98, the interim
49 base line that we have to meet between 2004 and 2008 will go
50 down towards 30 parts per million. And in fact our base line

1 will drop in the neighborhood of about 25 percent.

2 The project, on the other hand, will drive our
3 sulfur content upwards in order to--because it takes the
4 least profitable portions of our crude oil barrel and cracks
5 them into gasoline so that we can get a higher value out of
6 that product.

7 So while our gasoline sulfur content is going up,
8 our base line is going down, and we need to--we'll need to
9 install some sort of sulfur control by October of 2003 in
10 order to meet that interim base line. That sulfur control
11 will be essentially the same capital investment as the sulfur
12 control required to meet 30 parts per million across the
13 board. So there is no relief under the small refiner pro-
14 posal, even though we meet the definition for this company.

15 OGE: Thank you. Mr. DiGrazia, I thank you for your
16 statement. I wasn't clear exactly what is the time frame
17 that your company has in mind to make this new desulfurizing
18 procedure available to refineries at the commercial level?

19 DiGRAZIA: For the gasoline technology that we're
20 developing?

21 OGE: Yes.

22 DiGRAZIA: With the current level of funding, we hope to
23 be in a position to be commercial in the three-year time
24 frame that I mentioned in the testimony. Now, that is
25 assuming--we're in the middle right now of a three-year,
26 \$3,000,000 project funded by the Department of Energy. We've
27 finished two years. We're going to go into the third year,
28 but the third year of funding hasn't been approved yet, so
29 that's contingent upon the third year funding. Now we
30 believe that that will put us in a good position to meet the
31 requirements for the small refiners, but as you know, you've
32 heard several times today, refiners are going to have to make
33 decisions to put capital on the ground within the next year
34 or two in most cases, so if we're going to meet that market
35 for gasoline, we're going to need substantially more
36 investment to accelerate our development time.

37 OGE: So the issue for your companies is investing
38 resources to expedite the development of this technology. Is
39 your company suggesting that we delay the standards?

40 DiGRAZIA: Well, that's certainly an option. As I
41 mentioned in the testimony, again we'd hate to see technology
42 such as ours and some of the other newer technologies that
43 are out there essentially be locked out because of the fact
44 that there's inadequate time to test these technologies and
45 give the refining comfort to implement them to meet the one
46 to two-cent per gallon cost that you cite in the proposed
47 rule.

48 OGE: Thank you. I'd like to thank all of you. I
49 especially like to thank Ms. Bonnie Rader, the citizen of
50 this wonderful city, for taking the time to come and share

1 your views with us. Thank you very much.

2 We will have, I guess we do have a speaker that
3 just walked in. We would hear your testimony before we take
4 a break. Ms. Maggie Fox.

5 FOX: Yes.

6 OGE: Good afternoon.

7 FOX: Good afternoon. Thank you.

8 I actually am taking Greg's place.

9 My name is Maggie Fox, and I am the Sierra Club's
10 senior regional representative for the southwest regional
11 states which include Arizona, New Mexico, Colorado, Utah,
12 West Texas and Oklahoma.

13 Thank you for the opportunity to be here today.
14 Mr. Casini will testify, but as a citizen, later on this
15 afternoon.

16 Before I begin my remarks, I'd like to compliment
17 the members of the panel that I should have been a part of,
18 but just for a small delay. Particularly the gentleman you
19 were just questioning from Energy Bio-Systems. I certainly
20 couldn't pretend to know a great deal about his technology,
21 although this particular field fascinates me, and I've spent
22 a fair amount of time learning about it.

23 And I don't want to presume too much in my remarks,
24 but I think that there is a little different way to look at
25 it, which is that the Tier 2 rules relating to vehicles, as
26 well as gasoline standards, actually acts as an impetus for
27 his technology, and the very fact that he's here today, and
28 the number of industry representatives who are here today is
29 a good reason to believe that that technology may well be
30 involved in resolving this issue and be a part of solving
31 these problems.

32 I appreciate him coming, but I don't necessarily
33 agree that this rule will do anything but actually implement
34 that idea. It's a good one, and a much quicker fashion.

35 Interestingly enough, as everyone who has been a
36 part of the clean air debate for all these years, including
37 Ms. Rader and others and many people in this room, it seems
38 that EPA is always in the business of the argument between
39 too much, too quick from the point of view of industry, and
40 too little, too late from the point of view of the
41 environmental community and average citizens who live with
42 the implications of these rules.

43 I think EPA did a pretty good job in this proposal.
44 Obviously, there are parts of it that we would like to see
45 improved. There are loopholes that I think EPA feels that it
46 has needed to include in this proposal, which I think--don't
47 necessarily agree with, but overall, the Sierra Club as an
48 organization, is very supportive of this effort. And
49 particularly the very simple notion which underlies this
50 entire rule, which is the notion of implementing standards

1 for gasoline and cars as a system, and understanding how
2 important it is to do that at the same moment, and
3 recognizing the impact.

4 Particularly, I think that's not only important to
5 the average citizen and our public health consequences, but
6 it's also important to see how the industry is relating that.
7 If you listened to the auto makers' testimony in Philadelphia
8 and Atlanta, poison gasoline is the problem. And if you
9 listen to the refiners, it's those evil automobiles.
10 Somewhere in the middle are we, the drivers, and there are a
11 lot of us.

12 I'd like to, because the Sierra Club as an
13 organization will submit comprehensive comments, instead of
14 going over that, which I think you've heard before in other
15 cities, I'd like to confine my remarks this afternoon to just
16 the whole notion of this regional approach.

17 I understand the gentleman from the American
18 Petroleum Institute testified earlier last week that the
19 regional approach was the only way to go. Well, I live here.
20 And the west, it may or may not be viewed in accurate
21 scientific fashion as cleaner than the east. But one thing
22 we could agree on, I think, anyone involved in this debate,
23 and that is that the west is growing very, very rapidly. And
24 I think it could also be agreed upon by all parties that the
25 west is growing rapidly for a number of reasons. Not the
26 least of which is the quality of life. Inherent in that
27 quality of life is air pollution, and the absence of it, as
28 well as vistas.

29 People choose to come to the west, people choose to
30 live in the west for a variety of reasons, many of which are
31 lifestyle, and implicit in that lifestyle is the air that we
32 breathe, the vistas that we draw. There's no one who got
33 here today that didn't realize that they were in the west,
34 even on a cloudy day. This wasn't achieved by the absence of
35 EPA, and the absence of the air quality rules that we have
36 lived with for years. And the City of Denver and the
37 metropolitan region has worked very hard to implement.

38 Absent this proposal and a regional effort proposed
39 by the refineries whose concerns we share, but we don't share
40 the solution, we don't share supporting the solution that
41 they are offering, we won't have a metropolitan Denver or a
42 Salt Lake City, or other parts of the Rocky Mountain West
43 that will either be healthy or that we will be able to see.
44 And that is completely unacceptable to the citizens of these
45 states, and everyone here knows that. The difficulty is how
46 do you formulate a rule to make that possible. And I think
47 EPA has largely done that.

48 Let me comment, having applauded your efforts to
49 some extent on a few other pieces that we would like to see
50 change, and I want to talk about for a little bit about the

1 two loopholes around the light trucks.

2 One is the whole notion of addressing these
3 passenger vehicles over 8500 pounds. This--the delay in
4 doing that until 2009 is very troublesome.

5 My children are in public schools in the
6 metropolitan area, and it's quite remarkable the number of
7 larger vehicles in the form of the Ford Expedition and the
8 Chevrolet Suburban that show up in the school parking lot to
9 load a lot of children in to take on field trips. They make
10 a magnificent traveling vehicle for a lot of kids to go to
11 field trips.

12 But it isn't a good idea with the number of those
13 vehicles that are proliferating in the metropolitan area of
14 Denver alone, not including the other cities in the west, in
15 the region that I work. For those vehicles not to meet the
16 same standards as the other light duty vehicles that are
17 going to also be addressed in this proposal, and at the same
18 time.

19 Clearly, Ford Motor Company in stepping up to the
20 plate and volunteering to do this, shows that the technology
21 is available. There is testimony earlier this week from a
22 manufacturer's group that shows that these larger SUVs can
23 meet these standards at the same time line.

24 And I would encourage EPA to look at that effort
25 very, very carefully. That extended deadline just doesn't
26 make sense because it gives an added dis-incentive to the
27 industry or to the citizens. We actually are creating
28 vehicles, the larger you are, the more exempt you are from
29 air pollution requirements. That simply makes no sense. And
30 in the long run will be a disservice to us.

31 The last piece is support of the notion of this
32 fuel neutral proposal. But if you look really carefully at
33 it, the details of the program reveal that special
34 consideration was given to diesel. The dirtiest two bins in
35 the Tier 2 program are not necessarily for gasoline engines.
36 By including them in the Tier 2 program, EPA would in effect
37 encourage the deployment of diesel engines, particularly in
38 SUVs. Not on purpose necessarily, but as an effect. These
39 diesels would not be as clean as gasoline is under Tier 2,
40 though they would be certainly cleaner than today's diesels.
41 And it's important to note that. Diesel exhaust is toxic and
42 has been identified as a probable carcinogenic.

43 One of EPA's studies, as you know, is concluding
44 findings that diesel exhaust is 200 times more toxic than it
45 was previously believed to be. The use of engines whose
46 emissions pollute our air and directly threaten public health
47 runs counter to the entire purpose of the Clean Air Act, and
48 particularly these Tier 2 standards. Auto makers hope to use
49 diesel engines in SUVs because they are failing to meet even
50 the existing weak fuel economy standards for light trucks,

1 with the exception of those, who like Ford, have agreed to
2 step up to the plate.

3 In addition, the partnership for a new generation
4 of vehicles is relying on diesel based technology. It should
5 surprise none of us that auto makers are firmly behind
6 standards that accommodate these diesels. But this
7 compromise ultimately compromises public health. And the EPA
8 really should not be giving it the green light if these
9 standards, this technology cannot meet the high standard for
10 gasoline engines.

11 In sum, as you know, I think we really support this
12 program, and I'd like to just note that, as I understand it,
13 you're trying to finalize these standards by the end of this
14 year. We want to encourage that. We appreciate the
15 difficulty of it. We appreciate the pressure that you're
16 under. But if it doesn't happen by the end of this year,
17 then the program doesn't begin until 2005, and in effect we
18 move those deadlines further and further out.

19 Thank you.

20 OGE: Thank you, Ms. Fox.

21 We will take, let's see, we should take a 15-minute
22 break, and we will be back to start with the 4:00 o'clock
23 panel.

24 (Whereupon, a recess was held.)

25 OGE: We're going to start with our next panel. I'd
26 like to ask for Mr. John Stern, please come forward. Ms.
27 Michelle Robinson. I understand that Mr. Will Toor, the
28 Mayor of the City of Boulder, is not going to be with us.
29 Mr. Gregory Scott, and Mr. Stan Dempsey. You've got your
30 names in front of you.

31 And we will start with you, Mr. Stern. Good
32 afternoon.

33 STERN: Thank you. My name is John H. Stern and I'm
34 Vice President and General Counsel of Country Mark
35 Cooperative Inc. We own a 24,000 barrel refinery at Mount
36 Vernon, Indiana on the Ohio River. And we distribute the
37 fuels from that refinery up to the center part of Indiana,
38 about a 240-mile pipeline.

39 First I would like to compliment the panel on their
40 attentiveness today. I've watched you all day, and it's
41 really heartening to see a panel that attentive. Hopefully,
42 I'll make some points by saying that to you, and-- . There's
43 always a motive to madness for a lawyer, right?

44 I'd like for my comments as they are written to be
45 made a part of the record. But I've heard so many comments
46 today that track mine in so many different ways that I'm not
47 going to bore the panel with going over those again.

48 I want to speak individually about my organization
49 and our concerns. It's obvious that the refiners in general
50 are not in agreement in many ways, whether they are big or

1 small. And when I came here today I really kind of thought
2 that all small refiners were much the same. I haven't found
3 one that's the same in any of their presentations, and I
4 think that creates a real problem for the EPA in dealing with
5 the small refiner.

6 Our small refinery has been in existence for almost
7 60 years, and started out to serve just the farming community
8 in Indiana, and still does predominantly. We are the largest
9 purveyor of diesel fuel for the off-the-road use on the farm,
10 and we live and die in that market because that's about--we
11 have about 70 percent of that market. And it's our premier
12 fuel and makes the money for us.

13 However, out of that barrel also comes about 40
14 percent gasoline, so that becomes a real concern as to what
15 we have to do with the gasoline.

16 We buy only Illinois basin crude, so we can't
17 change our crude slate to different crudes, and we're not in
18 a position--we could take it up the river, but that's not
19 practical. We are the biggest buyer of crude in the Illinois
20 basin since BP and Ashland Marathon pulled out. We buy
21 practically all the crude in the Illinois basin, which is
22 somewhere between 25,000 and 30,000 barrels a day. And it's
23 a sweet crude. So we have a lot of people depending on us
24 down there in that market. We issue somewhere between 6,000
25 and 7,000 crude checks every month to a lot of small people.
26 We also serve 160 different small cooperatives throughout the
27 State of Indiana. And we're owned by farmer cooperatives.
28 We don't have any big stockholders. We don't have anybody to
29 come to our aid when we need money.

30 We recently have been in the process, and to point
31 out some of the problems of refinancing our long and short-
32 term loans. And we had to go through four banks before we
33 could get our short-term financing, and three banks to get
34 our long-term. And each and every one of them raised the
35 question, "Well, where do you stand on gasoline and diesel
36 fuel sulfur phase-down?" They are very concerned about
37 giving us money. We had to scratch and scrape and beg and
38 almost, at times on the verge of almost giving up that we
39 could raise the money just for our needs presently.

40 As a 24,000 barrel a day refinery, you've heard
41 most refiners here say, there's just not much money in
42 refining today. We don't own any crude oil. We don't own
43 any service stations, so we're dependent upon buying the
44 crude, making the product, and then selling it. And there is
45 not a lot of money there. I can tell you that.

46 And when we have to look at the possibility of
47 putting \$15 to \$20 million dollars in sulfur phase-down for
48 gasoline, and then turning around and having to add probably
49 another 10 to 12 for sulfur phase-down in diesel fuel, which
50 is far more important to us, but we have to do both, we're

1 looking at a real chunk of money.

2 Now we've already just found out that we hardly may
3 raise the money in the private sector just to carry our long
4 and short-term financing needs. So where do we get the
5 money? Well, you generate it out of profits. That's the
6 only place we--we can't go back to the farmer or to the
7 cooperative, because the money just isn't there. We can't go
8 to the general market, the financial markets. So to generate
9 this \$30 million dollars over the next six to eight years,
10 we're going to have to make about \$5 or \$6 million dollars a
11 year over and above our capitalization needs for replacement
12 and updating.

13 And we have other EPA things that are ongoing.
14 We're not complaining about them, they are necessary, we
15 should do them. We're for clean air.

16 I had to sit here today and listen to some of the
17 citizens, and I thought, you know, I'm sympathetic because I
18 have a son who lives in Denver, and a grandson, and they are
19 both asthmatic, so I see the other side of the picture very
20 well, too.

21 I know it's hard for you to deal with all the
22 various complexities of this rule-making process because you
23 have the large refiner, the auto maker, the small refiner,
24 the citizen, the government agencies of all the various
25 entities that are involved. And it's not easy, and I'm not
26 sure that there will ever be an easy way for you to get where
27 you need to be, and we all know you need to get there. I
28 simply ask for you to understand the needs of the small
29 refiner. And our needs, while they are different from many
30 other small refiners, I find that all small refiners have a
31 lot of problems, and will have, in raising the capital to do
32 what's necessary under these regulations.

33 I ask, do we have to go as fast and as far as we're
34 going? Maybe we do. I don't tend to be an expert in that.
35 I did talk to the gentleman about the bio-treatment. He says
36 three to four years out. If we have to make the decision on
37 where we go and we pick the wrong one, we're dead. We've got
38 to make sure that for the time we're ready to sulfur down,
39 that we're making the right decision, and we'll have enough
40 trouble doing it, the way it is.

41 So I ask you to allow as much time as possible, do
42 it in the most efficient and effective way, not only for the
43 small refiner, but for automobile makers, the citizens, and
44 the larger refiner. Take it all into consideration when
45 you're setting your time frames, because time will be very
46 important to the survival of the small refiner in the future
47 of the phase-downs.

48 And when you're looking at sulfur in diesel, take
49 into consideration what that also does to somebody who has
50 just gone through sulfur and gasoline, because it will be a

1 double whammy, so to speak, when it comes along.

2 And I appreciate the opportunity to have made my
3 presentation today, and if you have any questions I'd be
4 happy to answer them.

5 OGE: Thank you. Ms. Michelle Robinson. Good
6 afternoon.

7 ROBINSON: Good afternoon. I'm Michelle Robinson. I'm
8 Senior Advocate with the Transportation Program of the Union
9 of Concerned Scientists. We're a national non-profit
10 organization that is a partnership of scientists and citizens
11 working in, dedicated to advancing sound public policies in
12 areas where technology is a key. And that's one of the
13 reasons why we're here today.

14 One of the reasons I'm here today is that I'm
15 getting ready to start a vacation, so I am not only pleased
16 to be here today to have an opportunity to speak with you
17 about this important rule, but for obviously other reasons,
18 I'm going to be enjoying the beauty of this state and
19 hopefully breathing the clean air in the Rocky Mountains over
20 the weekend.

21 I'm here today to speak on behalf of our 80,000
22 plus members across the country, about 4,000 of which are
23 Colorado residents. As you've already heard and are well
24 aware, the reason that we're here today is clean, healthy
25 air. Not only today, but for generations to come. And many
26 of us have been working to reduce pollution from stationary
27 sources, like power plants, and aggressively advocating for
28 the development of cleaner, renewable energy sources in that
29 sector.

30 But mobile sources, especially cars and trucks,
31 have been given a virtual free ride for far too long, in our
32 estimation. Despite 30 years of regulation and moving in a,
33 what we think is a positive direction, cars and light trucks
34 are still the largest single source of air pollution in the
35 United States. These vehicles contribute more than 53
36 percent of national carbon monoxide emissions, 25 percent of
37 national volatile organic compound emissions, 22 percent of
38 national nitrogen oxide emissions, and in addition mobile
39 sources are responsible for 42 percent of urban air toxics
40 and 25 percent of greenhouse gas emissions. Major reduction
41 in emissions from individual vehicles simply have not
42 adequately kept pace with the increase in miles driven. And
43 the market trend is toward more polluting light trucks.

44 American motorists traveled more than 2.5 trillion miles
45 in 1997, and almost tripling since the mid-1960s. Over
46 the next 30 years, miles driven is expected to double once
47 again.

48 Furthermore, more and more americans are driving
49 high-polluting SUVs and pickups, in most cases unbeknownst to
50 them. In 1970 these vehicles only accounted for 15 percent

1 of new vehicle sales, and today one in two vehicles sold is
2 an SUV, pickup or minivan.

3 EPA's Tier 2 needs assessment which was released
4 last year, and leading up to this proposed rule, left little
5 room for debate, we think, on the need and ability to lower
6 emissions from cars and light trucks. The Union of Concerned
7 Scientists is pleased with much of the draft proposal. We
8 applaud EPA's foresight and commitment to protecting public
9 health by setting a relatively tight overall nitrogen oxide
10 fleet average, by bringing the majority of light trucks under
11 this average, and by requiring 30 ppm low sulfur gasoline
12 nationwide. We urge the agency to stand by these reasoned,
13 technically sound provisions, and to consider our
14 recommendations for strengthening other elements of the rule.

15 And I just want to take a minute to lay out a
16 couple of concerns we have in other areas of the rule. We
17 will be submitted additional formal, more comprehensive
18 comments to the docket, and those will contain more detailed
19 analysis and recommendations.

20 First, just on the light duty truck question:
21 Again, the EPA is doing the American people an important
22 service in bringing light duty trucks under the Tier 2
23 program. As people are increasingly aware, current standards
24 allow SUVs and light trucks to pollute from three to five
25 times more than the average new car. UCS analysis shows that
26 this light truck loop... that if this light truck loophole
27 never existed, it would be equivalent to taking 40,000,000
28 cars off the road today. That is five times the number of
29 cars sold last year.

30 There are few issues we'd like to raise regarding
31 how light trucks are dealt with in the proposed Tier 2
32 program.

33 First, the heavier SUVs and trucks should be
34 required to meet the same emission standards as other
35 passenger vehicles sooner than proposed, in our estimation.
36 We believe there's no reason to--there's no reason to believe
37 that these models cannot meet the tougher standards sooner
38 than 2009, and I would echo comments of some of the people on
39 the earlier panels in this regard. We've looked at the model
40 year 1999 certification levels for many of these vehicles,
41 and evidence shows that even without additional controls,
42 some heavy light trucks in the T-3 and T-4 categories are
43 certifying at or near the ultimate .07 grams per mile in the
44 Tier 2 standard.

45 Moreover, over 30 percent of the engine families
46 are already certifying at or below the .2 grams per mile noxa
47 interim standard that EPA will be requiring 25 percent of
48 heavier light duty trucks sold to meet this standard in 2004.

49 While we recognize that the percent of engine
50 families does not directly correspond to the percent of

1 vehicle sales, we question whether even the interim standard
2 is going to push manufacturers to sell truly cleaner vehicles
3 before the 2006 time frame.

4 Right now the majority of light truck models fall
5 within the zero to 6000 pound category, we're concerned that
6 the lower, that the slower phase in would prompt manufacturer
7 to push border line trucks into the heavier categories.

8 In addition, we look forward to working with the
9 agency on standards for the heaviest vehicles now on
10 manufacturer drawing boards, which would skirt the Tier 2
11 program altogether. Development of these ultra heavy
12 vehicles is a troubling trend, and we hopeful EPA will be
13 addressing the air pollution implication of these vehicles in
14 the near future.

15 Just want to spend just a second on the diesel
16 vehicles, or the issues we have with regard to the structure
17 of the rule.

18 Upon close inspection of EPA's proposed particulate
19 standards and the bin structures, we do have some major
20 concerns. While there's no disputing that total PM,
21 particulate matter emissions, will decrease under the Tier 2
22 proposal from today's levels, we believe that that is not the
23 only relevant comparative analysis. EPA in their Tier 2
24 analysis looks at a diesel penetration scenario, one that
25 assumes fairly aggressive growth in the diesel light truck
26 market. We've taken that and compared it to EPA's base line
27 scenario where little or no diesel passenger cars enter the
28 market, enter the fleet. This comparison shows a substantial
29 increase in diesel PM emissions, assuming this rapid increase
30 in diesel truck sales, that amounts to 50 percent of the
31 truck market in 2010, in this scenario. Under EPA's rapid
32 growth scenario, diesel PM 2.5 emissions in 2010 will
33 increase to six times today's levels. Even recognizing that
34 the agencies increased diesel sales sales scenario is
35 aggressive, the potential for a greater public health threat
36 than from higher than necessary particulate emissions in this
37 case is enormous. There are indications that the auto
38 industry is interested in outfitting their heavier SUBs and
39 light trucks with diesel engines. In addition, the
40 government industry partnership for the next generation of
41 vehicles, PNGV, is focused primarily on development of diesel
42 powered passenger car.

43 Therefore, our concerns regarding the increased
44 diesel particulate emissions are well-founded. The health
45 impacts of diesel exhaust have and continue to undergo
46 extensive study, and in addition to the role of fine PM and
47 exacerbating respiratory illness, there's increasing
48 recognition of the carcinogenic nature of diesel exhaust.
49 And we've seen that with the California Air Resources Board,
50 International Health Bodies, looking at now categorizing

1 elements in diesel exhaust as being carcinogenic.

2 And also we know that EPA recognizes this threat.
3 In EPA's draft diesel health assessment, identifying both
4 lung cancer as well as several other adverse respiratory
5 health effects, including respiratory tract irritation, and
6 immunological changes, and changes in lung function as
7 possible concerns for long-term exposure to diesel exhaust.

8 So--okay, almost done.

9 Heavy duty highway and offering diesel engines as a
10 group account for most of the diesel particulate emissions
11 currently released into ambient air. And EPA is currently
12 addressing ways to decrease the health risk associated with
13 heavy duty diesel exhaust emissions. Why then does the Tier
14 2 proposal contain loopholes that would allow diesel toxicity
15 to expand into an area where it doesn't currently exist?

16 We urge EPA to revisit the particulate bins and
17 adjust the standards to a more health protective gasoline
18 equivalent standard of .01 grams per mile.

19 I'm not going to go into my full statement on
20 sulfur except to say that we strongly support the proposed
21 requirements in the rule on sulfur, the 30 ppm nationwide,
22 though we would like to see further reductions in sulfur
23 content in gasoline and diesel fuel over time, we concur with
24 EPA's assessment that the proposed Tier 2 standards can be
25 met with conventional technology if gasoline averaging 30 ppm
26 is available. Hinging future emissions reductions on
27 achieving near zero sulfur levels we believe is unwise at
28 this time. Again though we'd like to see it--the agency head
29 in that direction.

30 We also do have concerns about the averaging
31 banking and trading elements of the rule. Primarily our
32 concerns are around the potential for large windfall credits.
33 And we really want EPA to consider strategies to prevent auto
34 makers from amassing windfall credits. And for getting
35 credits for vehicles that are running on the higher sulfur
36 fuel in the early years, discounting those credits.

37 Okay, let me just conclude by saying we believe
38 that EPA was wise to structure the program after the
39 California vehicle programs, however, we do believe that
40 important differences remain in terms of the overall program
41 benefits in the technology forcing nature of the programs in
42 California, and the northeast. And therefore, we're going to
43 continue to work with those states as they look at
44 maintaining those, the tighter program.

45 And just to finally say, thank you for the
46 opportunity to share with you some of our thoughts on the
47 proposal. We are very encouraged by the proposal, and look
48 forward to working with you to make it strong and effective
49 in reducing the public health and environmental threats posed
50 by auto pollution.

1 Thank you very much.

2 OGE: Thank you. I hope you have a good vacation here.

3 Mr. Greg Scott, good afternoon.

4 SCOTT: Yes. Good afternoon. My name is Greg Scott and
5 I am with the law firm of Collier, Shannon, Well and Scott,
6 and appear today on behalf of our client, the Society of
7 Independent Gasoline Marketers of America, also known as
8 SIGMA. I appreciate the opportunity to appear here today to
9 present SIGMA's views on EPA's proposal to reduce sulfur
10 levels in gasoline nationwide.

11 SIGMA is an association of over 270 independent
12 gasoline marketers operating in all 50 states. Last year
13 SIGMA members sold over 34 billion gallons of motor fuel,
14 representing approximately 22 percent of all motor fuels sold
15 in the United States. SIGMA members supply over 27 retail
16 outlets nationwide and employ over 22--I'm sorry, over
17 220,000 workers.

18 SIGMA is strongly opposed to EPA's gasoline sulfur
19 proposal. Given the fact that SIGMA members are not
20 refiners, this position maybe surprising. The EPA noticed in
21 the preamble of the proposal the reduced sulfur levels will
22 have little or no impact on independent gasoline marketers.
23 SIGMA directly disputes this assertion for the reasons set
24 forth below. This proposal will have a devastating impact,
25 in our opinion, on the independent gasoline marketers in many
26 areas of the nation.

27 SIGMA will explain the reasons for its opposition
28 to the proposal in detail in written comments we will submit
29 in the near future. However, in the short time permitted
30 today, SIGMA would like to raise three important concerns.
31 First, the gasoline sulfer proposal ignores the important
32 alternative regulatory plan offered by the nation's refining
33 industry in favor of a one-size-fits-all sulfer reduction
34 strategy.

35 EPA supports the proposals set forth by the
36 National Petroleum and Refiners Association and the American
37 Petroleum Institute for a regional dual fuel approach to
38 gasoline sulfur reduction. EPA's proposal will impose costs
39 on refiners, marketers, and consumers that are not necessary
40 to meet air quality standards across the nation. To the
41 contrary, SIGMA posits that EPA should regulate only where
42 necessary to meet existing air quality standards.

43 Second, SIGMA urges EPA to modify its proposed
44 flexibility for small refiners to include all small
45 refineries with capacities of 75,000 barrels per day or less.
46 SIGMA is deeply concerned that without this modification, we
47 will soon see in the 49 states the devastation of small
48 refineries and independent marketers that we have witnessed
49 over the last 15 years in California. To foresee the future
50 of gasoline in the rest of the nation under this proposal, we

1 need only look at the current situation in California. Small
2 refineries have been driven out of business and small
3 gasoline refineries have almost ceased to exist. Independent
4 marketers, generally the most price-competitive segment of
5 the marketing industry, have generally ceased to exist. This
6 lack of competition from independent marketers and
7 alternatives sources of supply from small, independent
8 refiners has led to the highest retail gasoline prices in the
9 nation in the State of California.

10 If EPA does not modify its proposal, as SIGMA
11 suggests, we will witness many small refiners and small
12 refineries closing their doors. It does not matter whether
13 the owner of these small refiners is a large company or a
14 small company. If it is not financially prudent for a
15 refining company to make investments necessary to reduce
16 gasoline and sulfur levels drastically, then that refinery
17 will be closed. It makes no difference to SIGMA members or,
18 quite frankly, the consumers whether it is Amoco's 52,000
19 barrel per day refinery in Salt Lake City that is closed or
20 Sinclair's 22,000 barrel per day refinery in Casper, Wyoming
21 that is closed. A supplier in that region will cease to
22 exist, the marginal gallon of gasoline that independent
23 marketers rely on to compete with the integrated oil
24 companies will be gone and retail prices to consumers will
25 escalate because of decreased competition.

26 Third, SIGMA strongly urges EPA to modify its
27 proposed enforcement strategy to mandate compliance at the
28 refinery gate and/or at the water's edge. Compliance with
29 the proposed gas and sulfur reduction should be enforced in
30 much the same way as the existing conventional gasoline anti-
31 dumping program. There is no reason for EPA to propose
32 downstream sulfur testing, record keeping, and reporting
33 requirements on marketers if every refiner and every importer
34 is required to test and report on every gallon of gasoline
35 produced or imported. Gasoline currently is commingled
36 through the distribution system without regard as to whether
37 it is produced by a large or a small refiner or whether it's
38 produced domestically or imported. Attempting to track
39 product from a small refinery or an importer will be
40 virtually impossible and we believe unnecessary. If every
41 gallon of gasoline produced or imported meets the refiner's
42 or the importer's sulfur specification, then further
43 downstream testing is irrelevant, costly, and unnecessary.

44 SIGMA appreciates the opportunity to present its
45 views. I'd be happy to answer any questions you might have.

46 MS. OGE: Thank you.

47 Mr. Stan Dempsey, good afternoon.

48 MR. DEMPSEY: Good afternoon. Welcome to Colorado.

49 MS. OGE: Thank you.

50 MR. DEMPSEY: I work for the Colorado Petroleum

1 Association and the Colorado Petroleum Association was born
2 on June 1 of this year. Colorado Petroleum Association is an
3 offshoot of Rocky Mountain Oil & Gas Association which many
4 of you may be familiar with, but I mention that because we
5 look forward as CPA to working with EPA and others on fuel
6 and air quality issues, as well as other environmental
7 issues, and we wanted to introduce ourselves today. We
8 recently worked with our member refiners to implement a new
9 half pound reduction of re-vapor pressure for helping the
10 Denver area meet the ozone challenge that we're concerned
11 about here in Colorado and hope that program works.

12 We support the comments made by Conoco and Diamond
13 Shamrock, as well as Sinclair, in their ability to express
14 many of the technical points that were made by those
15 companies in their comments. There are really a couple of
16 points that I really would like EPA to consider very
17 strongly. One of the points was just mentioned by Mr. Scott,
18 the previous testifier. And, that's the issue of the
19 definition of small refinery. I'm not quibbling with the
20 actual definition, but the issue of who is left out of that
21 definition and what the impact of the rule will be upon those
22 refineries, such as the two that exist in Colorado who are
23 relatively small refineries. They don't fit the definition
24 and those individual refineries themselves are viewed as
25 assets and they need to be strong-performing assets for their
26 companies and those companies will have to make decisions
27 such as do we make improvements to those refineries or do we
28 make other arrangements and we pipeline more product into
29 this market which is the Denver market. We have some
30 significant concerns about the fact that there will be
31 significant capital expenditures required and there are
32 approximately 350 people who are employed by those two
33 refineries.

34 That's the reason that we come to the table
35 supporting the API approach of a regional sulfur approach.
36 We believe that when an area like the Denver metro area or
37 Colorado and the western states are meeting the national
38 ambient air quality standards, are very close to the
39 situation with Denver with a couple of pollutants, that that
40 makes the case for a regional approach so that the current
41 suppliers of gasoline can have the time to ramp up to the EPA
42 requirement. We don't believe that there needs to be a one-
43 size-fits-all approach, particularly in the Denver area where
44 there has been a significant amount of work done by Colorado
45 and the Regional Air Quality Council to come up with
46 individual approaches like the RVP half pound reduction that
47 was developed by a consensus and then implemented without
48 having it be a national approach. We think those approaches
49 can be as innovative and as successful as a national
50 approach.

1 Finally, we would consider EPA to review the
2 proposal in light of the new Court decision that was handed
3 down from the Appeals Court and fully understand the
4 implications of that Court decision and how it works with
5 this proposed rule.

6 Thank you very much for the opportunity to
7 introduce ourselves, first of all, and we look forward to
8 working with you with this rule.

9 MS. OGE: Okay, thank you.

10 Mr. Roger Pelot?

11 MR. PELOT: Hello.

12 MS. OGE: Hello.

13 MR. PELOT: Thank you.

14 MS. OGE: Good afternoon.

15 MR. PELOT: It's Roger Pelot and I apologize for the
16 late entry. I was stuck out on I-70 for more than an hour
17 because of what appears to have been a serious accident just
18 east of Georgetown. So, I would have been here a lot sooner.

19 On the sheet, it says I am the Mayor of Dillon
20 which is true, but actually I am testifying on behalf of the
21 Colorado Association of Ski Towns; otherwise known as CAST.
22 CAST consists of a membership of 22 communities directly and
23 indirectly impacted by year-round activities of ski resorts.
24 CAST is not affiliated with any ski resort, but it is an
25 organization of local government officials representing
26 citizens. CAST members meet on a regular basis to discuss
27 issues and solutions that are the direct result of being in a
28 close geographical relationship to ski areas.

29 We all know that in order to have a ski area, we
30 need mountains, cold weather, and moisture. This typically
31 means very high elevations. Our communities and related ski
32 areas range anywhere from 7500 to 10,000 feet in elevation.
33 As an example, my town's elevation is 9,156 feet above sea
34 level and we are within 15 miles of five ski areas. And, as
35 we are all aware, oxygen levels are reduced at those
36 elevations which results in less efficient combustion, and
37 therefore, dirtier air.

38 Because of the resort environment, we are seeing
39 amenities in our communities that are attracting more
40 individuals to the mountains to live year-round including
41 senior citizens who are choosing to retire here. These
42 people enjoy year-round outdoor sports such as downhill
43 skiing, cross country skiing, snowshoeing, biking, hiking,
44 running, roller blading, and just plain old walking. People
45 are choosing the mountains for this kind of living to get
46 away from larger crowded communities in order to enjoy the
47 beautiful views and clean air. And, as a result, if you saw
48 today's Denver Post, Mountain Growth Starting To Fray Nerves.
49 So, growth is really an issue in mountain communities.

50 According to a survey conducted in 1996 by the

1 Northwest Colorado Council of Governments, the senior
2 population in Summit County alone is growing at a higher rate
3 percentage-wise than any county in the state. This is a
4 trend that is also occurring throughout the Rocky Mountain
5 area. As a reminder, when poor air quality becomes a concern
6 in the community, seniors are advised for health reasons to
7 stay indoors.

8 This, then, leads us to the issue at hand,
9 excessive pollution of light trucks, mini-vans, and SUVs. As
10 mentioned before, it is well-documented that combustion at
11 higher levels is not as clean as at sea level due to lower
12 levels of oxygen. Therefore, our vehicles emit more
13 pollutants in our communities which causes us to be extremely
14 concerned about air quality. As a result, most of our
15 communities have banned wood burning fireplaces in new
16 construction, requiring gas only units. Because of the air
17 pollution created by the use of sand and salt for snow
18 removal and traction, many communities have begun to switch
19 to magnesium chloride as an alternative solution. But, the
20 one area we can't control is the amount of pollution being
21 emitted from vehicle tailpipes.

22 With the tremendous amount of growth and the daily
23 influx of visitors to our communities, we have great concern
24 for our air quality due to the increased use of pickup trucks
25 and mini-vans and, in particular, SUVs. Every day these
26 vehicles continue to increase because people feel it gives
27 them the security necessary to get around the mountains in
28 the winter. That's also a debatable issue. I recently asked
29 a lady why she drives an SUV and her response was, "I'd be
30 afraid to leave my house in the winter if I couldn't get
31 around in my four-wheel drive." So, it's ludicrous to
32 suggest that these vehicles are being only used as light
33 trucks when, in fact, we all know that they're being used as
34 passenger cars.

35 Let me give you some examples of how this is
36 impacting our communities. It seems to me I read recently a
37 newspaper article that said SUVs either make up or are
38 expected to make up 28 percent of new car sales this year.
39 This is obviously one of the reasons that SUV pollution is a
40 critical issue. But, let me share with you some real numbers
41 in our community.

42 I took a sample of vehicles in our office and the
43 two adjacent offices in our building. The number of
44 employees is 15. There is no requirement that these vehicles
45 are needed to haul around supplies or materials, just people.
46 Of the 15 employees, nine, or 60 percent drive pickup trucks
47 or SUVs. I took a look at our own town council's makeup
48 which is seven members including me. Five of those seven or
49 71 percent drive pickup trucks, mini-vans, and SUVs. In my
50 neighborhood of 12 year-round residents, there are 12

1 vehicles in this category, or 100 percent. This is not to
2 imply that there's an SUV in every garage because my
3 neighbors across the street have two SUVs and one pickup
4 truck. Yesterday, I checked one of the town's parking lots
5 and discovered 25 of the 45 vehicles in the lot were either
6 pickup trucks or SUVs for a total of 55 percent. So, as you
7 can see, we've already exceeded national numbers on a daily
8 basis.

9 But, this example only addresses the year-round
10 environment. So, what about our annual visitors? And, I
11 think also in this morning's Post, it mentioned something
12 like 11 million skier visits a year. Every year, we break
13 records for cars passing through the Eisenhower Tunnel and
14 our Governor wants to widen the interstate to the mountains
15 in order to make the trip more easier and more convenient.
16 As a result, our towns are having traffic problems due to
17 congestion and the lack of parking. And, guess what the
18 vehicle of choice is for these visitors? SUVs. And, if you
19 happen to fly into DIA and rented a car, you probably noticed
20 row upon row of SUVs and mini-vans parked in the rental lots.
21 At least, they were there when I flew out of town a couple of
22 weeks ago. Where do you think those vehicles spend most of
23 their time on the road? It's driving to and from the
24 mountains and ski areas and in driving around our communities
25 contaminating our air. When you add this influx of vehicles
26 to the already heavily populated year-round pickup truck,
27 mini-van, and SUV environment, the resulting air quality is
28 definitely being compromised with potential impact on our
29 health, the very reason we moved to the mountains in the
30 first place.

31 And, lastly, I have attached a copy of a letter
32 sent from the state Air Pollution Division to our CAST
33 administrator citing a 1955 (sic) Rocky Mountain National
34 Parks survey where 92 percent of their visitors rated natural
35 scenery as their most important attribute followed closely by
36 clean air at 87 percent. These related items were the number
37 one and number two most important features rated by visitors.

38 So, in summary, CAST sees EPA's Tier II proposal as
39 an important step towards cleaning up and protecting the air
40 and our mountains. We would like to see the EPA move forward
41 with this proposal and work to close the loopholes that
42 currently exist so that all passenger vehicles including SUVs
43 and really large SUVs meet the same tailpipe standards in the
44 same time frame as other passenger cars. The only concern we
45 have are that the time frames tend to be somewhat long when
46 you consider the high percentage of these vehicles already
47 polluting our mountain communities.

48 Thank you.

49 MS. OGE: Thank you. Mr. Pelot, I have to add in
50 addition on data point to your statistics. I am one of the

1 many visitors that come here every year for the past 13
2 years. I have nothing against SUVs. I think they're
3 wonderful (inaudible). My preference is to just drive a car,
4 but I have two teenage daughters and, I'll tell you, when we
5 come here, we do rent. Nine out of the 10 times we have
6 rented an SUV. So, I'm very sympathetic to the cons that
7 you're making.

8 Do we have any comments for the Panel?
9 MR. GILLINGHAM: May I make a comment from the audience?
10 My name is Jim Gillingham. I'm with (inaudible) Diamond
11 Shamrock.

12 MS. OGE: Could you, please--would you like to make a
13 statement? I will call you.

14 MR. GILLINGHAM: Well, it's in response to the
15 presentation that was just made.

16 MS. OGE: Why don't you come forward? Take a microphone
17 so we can record your statement.

18 MR. GILLINGHAM: I'm Jim Gillingham from Ultramar
19 Diamond Shamrock and I'm reading from EPA's emissions facts
20 as of the standards for 1994. The NOX standard for cars is
21 0.6 grams per mile of NOX. In 1994, the standard for NOX for
22 SUVs, pickup trucks, and mini-vans is 0.6 grams per mile.
23 They're the same standard. That's for under 6,000, not in
24 excess of 6,000.

25 MS. OGE: Your statement is accurate. The SUVs, the
26 heavier trucks, 6,000 pounds to 8500 pounds, are the ones
27 that are the most polluting vehicles. They pollute two
28 times--five times more.

29 MR. GILLINGHAM: Yes, but if you look at those vehicles
30 which are parked on the parking lot at DIA, I don't think
31 you'll find any over 8,000 pounds. I personally drive--
32 6,000, I'm sorry. 6,000 pounds. I personally drive the
33 large extended Econoline passenger conversion van made by
34 Ford. It weighs 5600 pounds.

35 MS. OGE: Thank you. I'd like to thank all of you for
36 coming forward and expressing your interest in this program.
37 Thank you very much.

38 We will continue with the next panel. We have a
39 number of individuals that have signed earlier with the
40 receptionist and they're interested in testifying. So, I
41 would just read the names, and if you hear your name, please,
42 come forward. Mr. Kelsey Haviland, Ms. Nissa Maddox, Mr.
43 John Zazenski, Mr. Richard or Ms. Bonnie Rader--and I think
44 Ms. Bonnie was here earlier with us--Mr. John Wade, Mr.
45 Walter Jessel, Ms. Susan Castellon, Noelle Stenger, Ms.
46 Maggie Fox--and, I think, Ms. Fox was with us earlier--Ms.
47 Roxanne Venard, LaVon Martin, Ms. Catherine O'Grady, Ms.
48 Jennifer Lee, Mr. Paul O. Nelson, Mr. Ken Manley, Mr. Graham
49 Hill, Mr. David Scott Silverburg, Mr. Tom Platt, and Ms.
50 Ellen Lundquist.

1 If I have not mentioned your name and any of you
2 are interested in testifying, please, come forward?

3 (Pause.)

4 MS. OGE: Good afternoon. We'll start with you?

5 SPEAKER: First off, I would like to say that I decided
6 to come last night at 9:00 o'clock. So, this is very
7 impromptu. I don't have any facts or studies that I will
8 present, but I do have personal experience and opinions that
9 I think need to be heard and considered.

10 Driving down from Evergreen today, I took some car
11 samplings just as our panel member did. I counted five cars
12 at each, I guess I'd say, 20 minutes on my drive down here
13 and two out of five cars were small compact cars; the other
14 three were SUVs, mini-vans, or light trucks. I did that
15 about seven times. And, it turned out to be an average of
16 two out of five were small cars.

17 And, I haven't traveled very much in my life and I
18 haven't paid attention to much things except the last couple
19 of years. But, I do notice in Colorado that there are lots
20 of SUVs and light trucks and mini-vans, as well. Like our
21 last panel member was saying, we have less oxygen here and
22 that creates more of a problem. We have beautiful scenery
23 which attracts more people. More people, more cars, more
24 distances to drive equals more tail pipe emissions and smog.
25 The more people who come here, they come here for one reason;
26 the beauty and the healthy, active lifestyle. I remember
27 reading that we did have, I guess, the most active citizens
28 here in Colorado or we were rated pretty high on the scale of
29 healthy citizens and active citizens compared to the nation.
30 If we continue to ignore the importance of the car emissions,
31 we're going to completely destroy what people are moving here
32 for. And, I think it's important.

33 We cannot control what people are buying. We
34 cannot control what consumers are wanting. But, we can
35 control what these cars are putting out. Until consumers are
36 educated on what sort of cars they need or what kind of cars
37 are suitable for their lifestyle, as well as for the
38 environment, we'll have to just do with what we can. You
39 guys are doing what you can with EPA standards in the Tier
40 II. So, I would really hope and beg that you go ahead and do
41 this. Tie up the loopholes, push this as strongly as you
42 can. We have to meet a balance between our development, our
43 growth of the nation, of the country, of the state, of the
44 world, and how much land we need for survival, and how much
45 clean air we need for a health lifestyle.

46 So, this is one step, one step of many, and I hope
47 this will be a successful step versus a failure. There have
48 been many successful steps in the past couple years and I
49 hope that this will be another one. The harder we try and
50 the more we see the importance of what we have to do in order

1 to keep our world inhabitable, the better it is. I'm here as
2 a citizen and out of personal interest. I'm not here for any
3 company or gas station or activist group in specific, but I'm
4 here as a citizen and a concerned person who is growing up in
5 a world that's falling apart. So, I hope that you can take
6 my comments into consideration.

7 Thank you.

8 MS. OGE: We will and thank you for coming.

9 Ms. Maddox?

10 MS. MADDUX: Good afternoon. Let me just say I do
11 appreciate your patience and your attention. I haven't sat
12 through the whole thing, but it's late in the day and you
13 guys can do--pay attention as good.

14 My name is Nissa Maddox and I represent the
15 Colorado Environmental Coalition. So, I've got prepared
16 comments that I did submit on their behalf which I will
17 shorter because I'd like to add a personal statement, as
18 well.

19 But, for the record, the Coalition is a 35-year-old
20 grass roots, non-profit organization. We represent over 50
21 organizations here in Colorado, as well as thousands of
22 Coloradans. And, together, we advocate for Colorado's
23 environment and for our quality of life. You know, it has
24 been said that we are experiencing one of the fastest growth
25 rates in our history. We are expected to be at over 5
26 million people in the next 20 years. I'd just like to concur
27 with her comments that as we grow, we will see more cars and
28 more trucks and more SUVs on the road.

29 I definitely commend the EPA for their work on
30 looking to curtail automobile pollution and I can tell it's
31 not an easy fight. I would like to also say that while
32 you're doing great things, I agree that there are some
33 loopholes. First of all, no special treatment should be
34 given to the bigger, dirtier SUVs. As written, the EPA's
35 proposal right now doesn't require the cleanup of the largest
36 and the dirtiest Sport Utility Vehicles on the market and it
37 gives them longer before they have to comply. And so, it
38 actually does give an incentive for automobile manufacturers
39 to make and market the larger polluting SUVs.

40 Again, diesel vehicles, there should not be--they
41 should have the same treatment as the rest of the
42 automobiles. You heard before from health professionals that
43 diesel is not good. So, the more we can do to bring their
44 pollution standards into compliance, the better off.

45 And, also, cleaner gasoline should be available
46 earlier. When the cleaner cars come out in 2004, they should
47 have access to cleaner gasoline. So, I would like to see
48 that.

49 On behalf of the Coalition, again I appreciate the
50 opportunity to speak. As a Native Coloradan, I feel very

1 much in the same sentiment as this young woman here today. I
2 have grown up in Colorado and I have seen it change
3 dramatically, just the growth and it's in the last 10 years.
4 I'm not that old, I admit, but in my memorable lifetime,
5 things have changed. You know, I've heard the technical
6 assessments. I know that you've heard the technical
7 assessments in, you know, terms that I don't pretend to
8 understand, but the most important thing is that it's about
9 clean air and it's about health. We do know that air
10 pollution affects people's health. It affects their ability
11 to breathe and then sometimes it can be deadly to live in
12 high pollution areas. And so, while you're weighing the cost
13 of, you know, corporate responsibility, the bottom line is
14 that you can't pit that against one person's ability to
15 breathe.

16 So, throughout all the technical data, there is no
17 easy solution, but the bottom line is we're trying to protect
18 the health of the public and that's, I'm sure, your utmost
19 goal. So, I would like to see Colorado remain clean, remain
20 beautiful, know that my grandchildren can grow up and not
21 have to worry about asthma and air pollution. It's probably
22 not going to be the case, but the more we can--you know, the
23 more steps we can take now to make a difference, the better.
24 And so, I encourage you to put out the strongest standards
25 possible. There will be, you know, some rehash from that,
26 but it's about our health. So, do what you can.

27 Thank you.

28 MS. OGE: Thank you.

29 Ms. Jennifer Lee, good afternoon.

30 MS. LEE: Hi, thank you for coming here today so that we
31 can voice our concerns.

32 I am an intern at the American Lung Association
33 from the University of Northern Colorado, College of
34 Community Health Education, but I come today as a citizen and
35 a person who suffers from asthma and other chronic sinus
36 problems. I recently moved to Denver from Greeley, Colorado
37 about three weeks ago and, because of our poor weather
38 situation and the amount of pollution that I've been exposed
39 to here since I've moved, I've already made one trip to the
40 emergency room. And, I can honestly tell you--I don't know
41 if any of you have ever been to a hospital on the bad ozone
42 days, but they are just flooded with numerous people who,
43 when you sit in the room waiting to be called and talking
44 with your neighbor, people say, oh, today is such a bad ozone
45 day and the pollution is just awful. You know it seems to be
46 a consistent response among most of us asthma sufferers. Of
47 course, I can only speak for myself, but I can definitely
48 tell when these days are bad. And, the drastic number of
49 SUVs and those types of vehicles that are now in Colorado
50 because of the mountainous areas are just greatly increasing

1 the amount of pollution that is here that I feel physically
2 and emotionally every day.

3 I don't mean to get all emotional, but it's one of
4 those things when you can't breathe, it's a hard thing, you
5 know. And, I just ask that you guys really seriously
6 consider just at the minimum tightening up the loopholes that
7 allow these vehicles to slip through. I moved to Colorado
8 with the hopes of coming to a clean air state. It's very
9 much publicized as one and I've found the exact opposite. I
10 apologize for getting all teared up here. That wasn't my
11 intention.

12 So, I just thank you for allowing me to come here
13 and express to you personally my experience with the air
14 pollution and air quality problems that are, I feel, at least
15 partly responsible and directly related to these vehicles.

16 Thank you.

17 MS. OGE: Thank you, Ms. Lee.

18 Ms. Catherine O'Grady, good afternoon?

19 MS. O'GRADY: Good afternoon. Thank you for allowing me
20 time to testify and thank you all for coming here to hear
21 this testimony of the group today.

22 I work for the Visiting Nurse Association. I also
23 am on the Board of Directors for the American Lung
24 Association. The VNA has been in the metro area doing public
25 health nursing for 110 years. I thought it would be
26 interesting just to give you a few case studies of what we
27 are seeing in the field. I approached one of our nurses who
28 is asthmatic who also works in a program dealing with asthma
29 patients. And, she said--I'll keep this short--she said I
30 know on days when I can see the smog when I get up and the
31 bad weather is here that I will get two or three additional
32 home visit requests that day from patients who just can't
33 breath anymore and needs some help adapting their
34 medications. She said there was one particular infant, a
35 little Hispanic girl by the name of Ario (phonetic), that she
36 starts wheezing and then is put on increased steroids because
37 the patients (sic) have been taught how to deal with her
38 medications when she gets one of these attacks. She usually
39 gets sicker and ends up in the emergency room. As soon as
40 the weather clears, she said that it's very noticeable;
41 everyone's breathing clears.

42 So, I just will present that to you. We know that
43 on bad days that also we have additional emergency room
44 visits. We have had to institute a new health care plan,
45 which I know we're all concerned about rising health care
46 costs, but with United Health Care we set up a new plan and
47 it's called the Asthma Action Plan that went into effect in
48 December to help them avert emergency room visits because
49 they are extremely costly. If any of you have any asthmatic
50 children, which I do, I know that anywhere between \$500 and

1 \$1,000 is nothing. That's just to walk in the door until you
2 get through with your treatments and the tests and all of
3 that. So, what this program is set up to do, because the
4 hospital stays now are much shorter, there's very little
5 patient education done even at some of the better hospitals,
6 I'm sorry to say. So, these patients are coming home.
7 They're over the acute stage, but they also are having
8 problems trying to regulate their medications and finding the
9 triggers that are triggering them. And, certainly, air
10 pollution is one of those.

11 We've had 44 referrals since the beginning of
12 December. Of these, a third have been appropriate and we
13 have followed up on those. We have not had one hospital
14 readmission since that time. Now, part of that is tied into
15 education because on the bad pollution days we advise
16 patients not to go outdoors and exercise. We've advised them
17 to get a treadmill, and certainly for certain socioeconomic
18 groups, that's not feasible, nor is it feasible for them to
19 go to a gym. So, there always will be those problems with
20 us. We know from a third point that we are seeing a dramatic
21 increase in childhood asthma. I've talked to physicians at
22 National Jewish. We've seen some of the latest research that
23 they're doing over there that's not been published yet. And,
24 they don't have clear cut answers always either.

25 I know from personal experience, I have a
26 grandchild that was a preemie which is a high risk for lung
27 disease and also some genetic factors involved. He is now
28 three-years- old and is asthmatic. It happened very
29 suddenly. We were out to dinner and he had an upper
30 respiratory infection and my son turned to me and he said,
31 mom, do you think we ought to take him in? It was about 7:00
32 at night and I said, well, probably if he'll worse, it will
33 be at night. So, it might be better to go in now. So, I
34 took the other little granddaughter home with me and they
35 were at the emergency room until 2:00 in the morning.
36 Fortunately, they did not have to hospitalize him, but he is
37 now on nebulizer treatments.

38 We know on a fourth item that there is certainly
39 many people who are not insured and many low income are not
40 insured. That precludes some of them from getting some of
41 the health care teaching through HMOs or through other means.
42 In closing, we know that some of the people in this program
43 have been able to do dramatic things. The average age of
44 these patients is in their 30s and 40s that we are seeing.
45 So, these are young productive adults in society that are
46 capable of working, that want to work, that because of health
47 care problems are having a great deal of difficulty doing
48 that. We've been able to get people exercising up to a half
49 hour that could not tolerate any exercise, at all.

50 And, if any of you are going to be around next

1 month in Denver, I would invite you to the Champ Camp. This
2 is a wonderful program in its 20th year that American Lung
3 puts on for severely asthmatic children, children that have
4 never been to maybe the mountains because they are so
5 allergic to everything they can't go. With the volunteer
6 staff of physicians and nurses, these children are actually
7 going to the mountains. They're doing things they've never
8 done before in their lives like swimming and mountain
9 climbing. We had an interesting scenario where one of the
10 parents called up and talked to a doctor at Champ Camp and
11 said, you know, there must be something wrong there because
12 my child lied to me. And, the physician said your child
13 lied? And, she said yes. He called home and said that he
14 was rock climbing and she said my child can never do anything
15 like that. The physician turned to her on the phone and said
16 your child is not lying. He is climbing rocks and doing what
17 he told you he was doing. It is a wonderful program and I
18 would invite you out to see that.

19 But, the key to this whole problem is prevention
20 and I think that lies in your hands today. Thank you for
21 allowing me time to testify.

22 MS. OGE: Thank you.

23 Mr. Zayach?

24 MR. ZAYACH: Yes.

25 MS. OGE: Good afternoon.

26 MR. ZAYACH: Thank you. Jeff Zayach, Boulder County
27 Health Department, Environmental Health Program.

28 First of all, I'd like to say that being probably
29 the last speaker, I think, it's also going to be, I think,
30 the shortest one you've heard yet. So, that's probably good.

31 MS. OGE: We have one more.

32 MR. ZAYACH: Oh, okay.

33 MS. OGE: It doesn't have to be that short. Okay, go
34 ahead?

35 MR. ZAYACH: This proposal couldn't come at a more
36 important time for us here in Colorado. Our state's
37 population growth and vehicle miles traveled are
38 skyrocketing. I'm going to speak more from a local
39 perspective here, although I realize this is definitely a
40 national, regional, state, and local proposal. I'm going to
41 speak more from the local perspective.

42 Boulder County's 1998 population of 273,000 people
43 is projected to skyrocket to 403,085 people by the year 2020.
44 To add to this growth concern is the fact that people are
45 driving more and farther than ever before. The traffic
46 volume today on Boulder's six major corridors are a total of
47 146,800 vehicles per day and that number will increase to
48 272,900 vehicles per day in 2020. This represents nearly a
49 50 percent increase. The increased population growth and
50 vehicle trips are reflected in Boulder County's seven ozone

1 exceedences during 1998. When we look at the vehicle trip
2 and population growth projections over the next 15 to 20
3 years for Boulder, we are concerned that we will not be able
4 to attain the ozone standard without the implementation of
5 this proposal.

6 We have made small strides with voluntary programs,
7 but have not been able to get commuters out of their cars the
8 way that we need to in order to see significant gains in air
9 quality. It appears that population growth, increased
10 vehicle miles traveled, and skyrocketing vehicle trips will
11 outpace any voluntary alternative transportation programs
12 which further strengthens the need for this proposal.

13 Finally, as all of you know, under the Tier I
14 standards, the Sport Utility Vehicles, mini-vans, and pickup
15 trucks are allowed to pollute up to five times more than
16 cars. Under Tier II, those same vehicles which represent
17 approximately 50 percent of all the passenger vehicles sold
18 will be subject to the same standards that apply to cars. We
19 don't believe the Sport Utility Vehicles, mini-vans, and
20 pickup trucks should be allowed to meet a less stringent
21 standard than the rest of the auto industry.

22 Our perspective in Boulder County--and this
23 represents both the Boulder County Health Department and the
24 Boulder County Commissioners--is that the new standards
25 should include the heavy, above 6,000 gross weight vehicles,
26 as well. We have submitted more in depth comments regarding
27 this proposal, as well. We definitely applaud EPA's work in
28 getting this proposal through and fully support it.

29 Thanks.

30 MS. OGE: Thank you. Thank you all for coming and
31 sharing your views with us and thank you for the supportive
32 words and encouragement. Thank you, Haviland, for taking
33 your own personal time with our prepared remarks and comments
34 shared with our prepared remarks and coming to share with us
35 all your views. Thank you, very much.

36 MR. HAVILAND: Yes.

37 MS. OGE: And, we do have one, maybe more than one,
38 individuals. I'll call Ms. Lisa Campbell to come forward.
39 Hi. And, I think she has children with her. You can bring
40 them along.

41 MS. CAMPBELL: Thank you.

42 MS. OGE: Yes, please, go ahead? What a wonderful way
43 to conclude this hearing with the youngest generation.

44 MS. CAMPBELL: Thank you. You're very gracious. I
45 appreciate your letting me speak.

46 I'm Lisa Campbell. I'm here on behalf of
47 (inaudible). We were--

48 MS. OGE: Lisa, would you like to have a seat? Your
49 sons can sit down. Okay. But, we need the microphone so we
50 can record your comments.

1 MS. CAMPBELL: My husband and I were transferred to
2 Colorado or we were offered the transfer to Colorado, but we
3 were concerned because of the image we had with the "brown
4 cloud", you know, the results of all the pollution that
5 Colorado was known for and we have an asthmatic son. So, I
6 just want to restate, which I'm sure you all know,
7 professionals are affected by the negative. You know, city,
8 community planners are affected by that negative attitude
9 that people have about Colorado and I think that it will be
10 beneficial for businesses, as well as individuals, to try and
11 clean up the environment. Everybody knows that. I guess, it
12 goes without saying.

13 But, my other point is that asthma is the leading
14 cause of keeping children out of schools. It's not
15 pneumonia, it's not flu anymore; it's asthma and it's on the
16 rise. And, I just feel it needs to be stated that it's
17 affecting our children's education and the community, as
18 well.

19 So, I just want to state support for the stronger
20 laws. I applaud what you're doing already. I recognize that
21 it's already a beneficial bill as proposed, but I just wanted
22 to state that very personal aspect.

23 MS. OGE: Thank you for coming. Thank you for bringing
24 your sons with you.

25 MS. CAMPBELL: I didn't realize it was going to be quite
26 so quiet in here. Thank you very much for your time and your
27 effort.

28 MS. OGE: Thank you. Bye.

29 And, Ms. Susan Castellon? Good afternoon.

30 MS. CASTELLON: Good afternoon. Susan Castellon with
31 20/20 vision. On behalf of our over 10,000 members
32 nationwide and our over 500 members of Colorado, I would like
33 to express my support for EPA's commitment to protecting the
34 public health and the health of our environment and for
35 taking steps needed to insure that the next generation of
36 vehicles on the road are truly clean.

37 With over 207 million automobiles registered in the
38 U.S. traveling 2.6 trillion miles annually, auto pollution is
39 one of the largest sources of air pollution. As vehicle use
40 grows due to sprawling population growth, asthma rates are
41 also on the rise. More people than ever before are
42 vulnerable to the severe health impacts of air pollution.
43 Children, the elderly, and those with respiratory illnesses
44 are most at risk. While we may not be able to significantly
45 reduce the number of cars on the road, the EPA's Tier II
46 proposal will help strengthen auto emission standards to
47 insure cleaner cars and cleaner air.

48 Specifically, our members support the following key
49 elements in the Tier II proposal. Requiring new cars and
50 light trucks to emit 80 percent less smog creating pollution

1 than today's cars. Setting the same tough standards for
2 cars, SUVs, and light trucks. Requiring low sulfur gas to be
3 sold nationwide. EPA estimates that the Tier II standards
4 combined with low sulfur gasoline requirements will have the
5 equivalent effect of taking 166 million cars off the road
6 when the proposal is finally implemented.

7 However, 20/20 Vision feels that there is
8 improvements that need to be made to strengthen this proposal
9 further. There should be no special treatment for heavier
10 vehicles. The 10 year phase-in schedule for these vehicles
11 is too long. There should be no special treatment of diesel
12 technologies. The phase-in period for low sulfur fuels
13 should be faster. Low sulfur gasoline needs to be adopted
14 nationally at the same time as new emission standards. There
15 should also be increased incentives for advanced technology
16 vehicles.

17 Since this decision will affect our air quality for
18 decades to come, we need the strongest possible standards now
19 that will protect our health, our children's health and our
20 environment. Tier II is a very strong step forward and we
21 thank the EPA for their leadership.

22 MS. OGE: Thank you for coming forward.

23 Do we have any other individuals interested in
24 testifying?

25 (No response.)

26 MS. OGE: No. Well, this concludes today's public
27 hearing.

28 (Whereupon, at 5:25 p.m, the meeting was adjourned.)